



Place: DNV Hall 355 W. Queens Rd V7N 2K6
Time: 7:00-9:00pm
Chair: Paul Tubb – Pemberton Heights C.A.
Tel: 604-986-8891 **Email:** petubb@hotmail.com
Regrets: John Hunter (SCA), Cathy Adams,

1. Order/content of Agenda(*short)

2. Adoption of Minutes of May 16th

<http://www.fonvca.org/agendas/jun2012/minutes-may2012.pdf>

3. Roundtable on “Current Affairs”

A period of roughly 30 minutes for association members to exchange information of common concerns.

A. Overview of Vancouver’s Laneway Housing

<http://www.fonvca.org/agendas/jun2012/Vancouver%20Laneway%20Housing,%20Regulations%20and%20Guidelines.pdf>

B. Is Urban Densification just plain dense?

<http://www.fonvca.org/agendas/jun2012/news-clips/Is-urban-density-just-plain-dense.pdf>

C. Policing Costs to increase 30+%

<http://204.239.10.176/wowza/flowplayer/council/council.html?start=5610&end=7510&filename=20120529>

D. DNV Tree Bylaw Amendments: June 5th Workshop

http://www.dnv.org/upload/documents/Council_Agendas_Minutes/cw120605.pdf

E. Special Meetings of Council and Public Input

Recent trends compared to long term past.

4. Old Business

4.1 Council Agenda Distribution: update

<http://www.dnv.org/article.asp?a=5300> status
 - Letter to council – attached
 - Compare to a web tool (attached example)

4.2 FONVCA Resolution on Home Care

<http://www.fonvca.org/agendas/jun2012/letter-to-council-item-3F-w-attachment.pdf>
 - response?; missed UBCM deadline; future plans.

5. Correspondence Issues

5.1 Business arising from 9 regular emails:

Distributed with full package and posted on web-site

5.2 Non-Posted letters –0 this period

Distributed with full package but not currently posted on web-site.

6. New Business Council and other District Issues.

6.1 Conversation with DNV CAO Dave Stuart

Note: This item likely to be discussed around 7pm

- DNV Agenda notification
- DNV Correspondence sent to Mayor & Council
- DNV policy on redacting documents

6.2 Release of DNV 2011 Annual Report

<http://www.dnv.org/article.asp?c=1124>
<http://www.dnv.org/article.asp?p=true&a=5311&v=1>
 Compare it to the one by Saanich found at www.saanich.ca/services/docs/pdf/annual-report2011.pdf
 A non-official, compact, single file, quality version of DNV Annual Report can be found at <http://www.fonvca.org/dnv-annual-reports/2011.pdf>

7. Any Other Business

8. For Your Information Items

a) Compulsory Bicycle Helmets a Good Idea

<http://sites.google.com/site/bicyclehelmetmythsandfacts/>

b) Home and Community Care in Canada:

An economic Footprint – May/2012 Report by Conference Board of Canada
<http://www.conferenceboard.ca/e-Library/abstract.aspx?did=4841>

c) Interesting web site

<http://www.francesbula.com/>

d) Urban Crowd Sourcing – Problem Reporting

<http://www.bbc.co.uk/news/business-18367213>

e) June12 D44 School Board presentation to Council

http://www.dnv.org/upload/documents/Council_Agendas_Minutes/120612Presentation.pdf

8.1 Legal Issues

(a) Undeclared suite can void home insurance

<http://www.vancouver.sun.com/business/Undeclared+suites+void+owner+insurance/6731211/story.html>

(b) Robert’s Rules FAQ

<http://www.robertsrules.com/faq.html>

(c) Supreme Court of Canada: PILT ruling

<http://fcm.ca/home/media/news-releases/2012/statement-by-fcm-president-karen-leibovici-following-the-supreme-courts-decision-on-the-payments-in-lieu-of-taxes-act.htm>
<http://scc.lexum.org/en/2012/2012scc29/2012scc29.html>

8.2 Any Other Issues

a) News-Clips of the month...

<http://www.fonvca.org/agendas/jun2012/news-clips/>

9. Chair & Date of next meeting.

John Hunter - Seymour C.A. -Jul 18th ???

FONVCA Received Correspondence/Subject

14 May 2012 → 17 June 2012

LINK	SUBJECT
http://www.fonvca.org/letters/2012/14may-to/Doug_Curran_15may2012.pdf	Capilano Gateway Association 2012 AGM and reports
http://www.fonvca.org/letters/2012/14may-to/Monica_Craver_16may2012.pdf	Mountain biking responsibility and accountability
http://www.fonvca.org/letters/2012/14may-to/Monica_Craver_17may2012.pdf	adverse outcome of freeride mountain biking
http://www.fonvca.org/letters/2012/14may-to/Monica_Craver_24may2012.pdf	Mountain Biking: Digging faster, harder, deeper... Dirtier
http://www.fonvca.org/letters/2012/14may-to/Irwin_Jerome_30may2012.pdf	Densification: A Panacea or Apocalypse of the Future
http://www.fonvca.org/letters/2012/14may-to/Monica_Craver_30may2012.pdf	Who gave permission for this destructive "TAP" trail reroute
http://www.fonvca.org/letters/2012/14may-to/Monica_Craver_31may2012.pdf	A Mountain Biking Allegory
http://www.fonvca.org/letters/2012/14may-to/Wendy_Qureshi_10jun2012.pdf	Lack of transparency at the DNV
http://www.fonvca.org/letters/2012/14may-to/Irwin_Jerome_13jun2012.pdf	Symbolic example of how heritage and character are lost in a community

Past Chair of FONVCA (Jan 2009-present)

Notetaker

Jun 2012	Paul Tubb	Pemberton Heights C.A. C.A.	T.B.A.
May 2012	Diana Belhouse	Delbrook C.A. & SOS	John Miller
Apr 2012	Val Moller	Lions gate C.A.	Dan Ellis
Mar 2012	Eric Andersen	Blueridge C.A.	John Hunter
Feb 2012	Dan Ellis	Lynn Valley C.A.	John Miller
Jan 2012	Brian Platts	Edgemont & Upper Capilano C.A.	Cathy Adams
Nov 2011	Paul Tubb	Pemberton Heights	Eric Andersen
Oct 2011	Diana Belhouse	Delbrook C.A. & SOS	Paul Tubb
Sep 2011	John Hunter	Seymour C.A.	Dan Ellis
Jul 2011	Cathy Adams	Lions Gate C.A.	John Hunter
Jun 2011	Eric Andersen	Blueridge C.A.	Cathy Adams
May 2011	Dan Ellis	Lynn Valley C.A.	Brian Platts/Corrie Kost
Apr 2011	Brian Platts	Edgemont & Upper Capilano C.A.	Diana Belhouse
Mar 2011	Val Moller	Lions Gate C.A.	Eric Andersen
Feb 2011	Paul Tubb	Pemberton Heights ← Special focus on 2011-2015 Financial Plan	
Jan 2011	Diana Belhouse	S.O.S.	Brenda Barrick
Dec 2010	John Hunter	Seymour C.A. ← Meeting with DNV Staff on Draft#1 OCP	None
Nov 2010	Cathy Adams	Lions Gate C.A.	John Hunter
Oct 2010	Eric Andersen	Blueridge C.A.	Paul Tubb
Sep 2010	K'nud Hille	Norgate Park C.A.	Eric Andersen
Jun 2010	Dan Ellis	Lynn Valley C.A.	Cathy Adams
May 2010	Val Moller	Lions Gate C.A.	Cathy Adams
Apr 2010	Paul Tubb	Pemberton Heights	Dan Ellis
Mar 2010	Brian Platts	Edgemont C.A.	Diana Belhouse
Feb 2010	Special		
Jan 2010	Dianna Belhouse	S.O.S	K'nud Hille
Nov 2009	K'nud Hill	Norgate Park C.A.	Eric Andersen
Oct 2009	Dan Ellis	Lynn Valley C.A.	Cathy Adams
Sep 2009	Brian Platts	Edgemont C.A.	Dan Ellis
Jul 2009	Val Moller	Lions Gate N.A.	Diana Belhouse
Jun 2009	Eric Andersen	Blueridge C.A.	Diana Belhouse
May 2009	Diana Belhouse	S.O.S	Eric Andersen
Apr 2009	Lyle Craver	Mt. Fromme R.A.	Cathy Adams
Mar 2009	Del Kristalovich	Seymour C.A.	Dan Ellis
Feb 2009	Paul Tubb	Pemberton Heights C.A.	Cathy Adams
Jan 2009	K'nud Hille	Norgate Park C.A.	Eric Andersen

FONVCA

Minutes of Regular Meeting May 16th 2012

At DNV Hall 355 W. Queens Rd V7N 2K6

Attendees

Diana Bellhouse (chair pro-tem)	Delbrook CA & Save Our Shores Society
John Miller (notes)	Lower Capilano Community Res. Assoc.
Sharlene Hertz	Delbrook C.A.
Cathy Adams	Lions Gate N. A.
Paul Tubb	Pemberton Heights C. A.
Douglas Curran	Capilano Gateway Association
Eric Anderson	Blueridge Community Association
Dan Ellis	Lynn Valley C. A.
Corrie Kost	Edgemont & Upper Capilano C.A.

Regrets: John Hunter (SCA), Carol Hartnett (NQ)

The meeting was called to order at 7:08 pm.

1. Order/Content of Agenda

Motion made by Corrie to revise the order of the agendas for future meetings per “Democratic Rules of Order”. Motion was seconded by Eric for discussion. Following discussion and agreement by those present, that “Current Affairs” would be limited to 30 minutes – and return to it after dealing with “Old Business” and “Correspondence” - the motion was withdrawn.

2. Adoption of April 16th 2012 Minutes

<http://www.fonvca.org/agendas/may2012/minutes-apr2012.pdf>

Motion by Eric, seconded by Cathy, to adopt the April 2012 minutes as circulated. Carried unanimously.

3. Roundtable on Current Affairs (started at 7:13 pm)

3A. Role of LPMC (Local Plan Monitoring Committee) – as per page 87 (attached to full agenda) of new OCP, the role of any LPMC should carry on until further change are made in the communication process. Further discussion required.

3B. Healthy Neighbourhood Fund –

Corrie – confirmed with DNV Christina Rucci that funds can still be applied for. See www.dnv.org/upload/documents/cpolicy/c1047902.pdf

3C. Proposed Changes to Federal Fisheries Act – read the referenced materials. It was felt that this would have minimal, if any, impact on the Provincial and Municipal Environmental regulations.

3D. Bear Resistant Containers for Foodscraps – only a limited supply of these \$200 containers are available. These containers can be left outdoors.

3E. Newly Proposed Development Permit Area Regulations – only applies to new construction. Thus they do not apply to say, re-roofing – ie. No permit required but the accompanying educational program will be pushing to voluntarily meet the new standards for significant changes to existing homes. There is a DNV meeting at the hall on May 22nd – first 100 in attendance will get a free tree.

(30 minutes up so moved onto Old Business)

4. Old Business

4.1 Council Agenda Distribution – web users can subscribe to receive notification of an update to the web page:

<http://www.dnv.org/article.asp?a=5300>

In the near future, the email notice will advise of what change took place.

Motion made, seconded by **Cathy** to: Write Mayor & Council advising they are disenfranchising a portion of the population who do not have web access, by the District not posting the Council agenda in the North Shore News.

Carried unanimously. **ACTION ITEM**

5. Correspondence Issues

5.1 Business arising from 17 regular emails. Discussion regarding concern with the Alpine Plan not being followed and confusion over rebuilding versus dismantling. **Dan** Ellis will follow up with R. Boulton regarding correspondence on reopening trail(s). **ACTION ITEM**

5.2 Non-Posted letters – 4 emails were not posted. There was a question raised as to why they were not posted. Comments made regarding the 4 emails being an interchange between two individuals that didn't concern FONVCA and why was FONVCA copied on irrelevant material. Carried unanimously to post the 4 emails.

Back to “Current Affairs” –

3F. Health/Home Care – Letter (attached to full agenda)

[http://www.fonvca.org/agendas/may2012/Diana-Belhouse-](http://www.fonvca.org/agendas/may2012/Diana-Belhouse-Presentation%20to%20FONVCA-Apr18-2012.pdf)

[Presentation%20to%20FONVCA-Apr18-2012.pdf](http://www.fonvca.org/agendas/may2012/Diana-Belhouse-Presentation%20to%20FONVCA-Apr18-2012.pdf) by Diana Belhouse was discussed. Eric made a motion, John seconded it, that: “*FONVCA write to Mayor & Council to encourage Council to bring to the UBCM (Union of BC Municipalities) a resolution asking the BC Government to pass legislation changing the fee schedule to create financial incentives for home (medical) visits.*”

During discussion, attendees were encouraged to back the Ombudsman's report, recently issued. It was also suggested to forward Diana's letter but remove her name – **Motion carried unanimously. ACTION ITEM**

3G. (1) Examples/Concerns of DNV Contravening OCP – item was tabled to request examples. One such was alleged to be the Tree Bylaw – which does not apply to works done by the DNV (do as I say and not as I do).

(2) OCP Implementation Committee Members announced

<http://www.fonvca.org/agendas/may2012/Advisory-Oversight-Committee-Appointments.pdf>

It was noted that 4 of the 16 appointees were from community associations. Postscript..Dave Sadler is not THE Dave Sadler...

3H. SOS Discovery Waterfront Walk June 3, 2012 – Diana advised that it will be a two hour walk (shorter than years before) and that it will start and stop at the same point (transportation not required to get back to the starting point as in previous years). See

<http://www.fonvca.org/agendas/may2012/SOS-jun3-2012.pdf>

3I. DNV Correspondence to Mayor & Council – In West Van, all letters to their Mayor & Council re items on the agenda are posted for public access.

For policy details see

<http://www.westvancouver.ca/Government/Level3.aspx?id=37466>

This item is to be brought back at the next meeting in June with Dave Stewart. **ACTION ITEM**

6. New Business – none in this section

7. Any Other Business – none in this section

8. FOR YOUR INFORMATION ITEMS

Only one item discussed ...

8.1 Legal Issues – Robert's Rules – can be used by those with greater knowledge of the rules, to their advantage. Simpler rules such as Democratic Rules of Order, do not give the same type of advantage to those more knowledgeable. The following reference material was distributed at the meeting.

<http://www.democraticrules.com/pdf/tips.pdf>

<http://www.democraticrules.com/pdf/summary.pdf>

<http://www.democraticrules.com/compare.html>

Meeting adjourned at 9:13 pm.

9. Chair & Date of next meeting – John Hunter – June 20th.

<http://vancouver.ca/commsvcs/lanewayhousing/regulations.htm>

Laneway Housing

<http://vancouver.ca/commsvcs/lanewayhousing/pdf/LWHhowtoguide.pdf>

Regulations and Guidelines

Some key regulations for laneway housing are:



- Allowed in RS-1 and RS-5 single family zones
- Can be located on lots 33 ft. wide and wider, with an open lane, on a double fronting street, or on a corner with a lane dedication
- Generally located in the space where a garage would be permitted, i.e., in the rear 26 ft. of the lot (with a minimum of 16 ft. separation between the laneway house and the main house)
- Rental or family use only: no strata-titling
- Minimum of one on-site parking space must be provided
- Maximum allowable unit size is based on lot size, to a maximum of 750 sq. ft. (A maximum unit size of approximately 500 sq. ft. is allowed on a 33 ft. x 122 ft. lot)
- 1 and 1½ storey configurations are possible, with guidelines to address upper storey massing, privacy and shadowing
- Homeowners can add a laneway house while retaining their existing main house, with or without a secondary suite. A laneway house can also be built with a new house.

Detailed regulations and guidelines are available online to help prospective applicants determine whether their lot is eligible for a laneway house, and what kind of laneway house they can build. Links to some key resources are below:

<http://vancouver.ca/commsvcs/BYLAWS/zoning/sec11.pdf#page=7>

- [Laneway Housing Regulations](#) (143kb) (See Section 11.24)
Regulations governing laneway housing are included in the Zoning and Development By-law.
- [Laneway Housing Guidelines](#) (72kb)
Laneway housing guidelines focus on creating neighbourly relationships with adjacent properties, a positive lanescape, and enhanced environmental performance of the entire site. Development Services staff work with applicants to determine how design on a specific site can best meet these guidelines.
- [Laneway Housing Illustrative Examples](#) (3.45mb)
This visual guide illustrates some key principles from the regulations and guidelines, including where a laneway house can be located on a lot, size, parking, and possible laneway house configurations and plans.

<http://vancouver.ca/commsvcs/lanewayhousing/pdf/sep09illustrativeexamples.pdf>

If you are interested in building a laneway house, please call or visit the Enquiry Centre to learn more about the regulations, the approval process and whether your lot is eligible.

Enquiry Centre
City Hall, East Wing, 2nd Floor
Phone: 604.873.7611
Email: csg.enquiry.centre@vancouver.ca

<http://vancouver.ca/commsvcs/developmentsservices/subreq/pdf/lanewayhouse.pdf>

[View a detailed checklist of submission requirements](#) (90kb)

[\[top\]](#)

http://www.vancouversun.com/business/2035/McMartin+Vancouver+goal+urban+density+just+plain+dense/6692175/story.html?utm_source=twitterfeed&utm_medium=twitter

McMartin: Is Vancouver's goal of urban density just plain dense?

FONVCA Agenda Item 3(B)

BY PETE MCMARTIN, VANCOUVER SUN MAY 28, 2012



Downtown Vancouver is already dominated by high-density, high-rise glass-clad towers.

Photograph by: Mark Van Manen, Vancouver Sun files

What if everything we've believed about the benefits of urban density is wrong?

What if restricting car traffic in favour of public transit hurts a city rather than helps it?

Here in Vancouver, the benefits of densification and transit are planning gospel. They're the twin pillars of the Greenest City.

Wendell Cox begs to differ. Cox, a U.S. public policy consultant, and a thinker who most urban planners would consider the devil incarnate, argues that densification has hurt the quality of life in Canada's major cities, not helped it.

And that includes Vancouver.

Cox makes his case in *Mobility and Prosperity in the City of the Future*, a paper just released by the Macdonald-Laurier Institute in Ottawa.

"Among the two most basic underlying philosophies," Cox wrote, "are an interest in reducing travel by automobile and an intent to force people into more dense living conditions, at least in part by not allowing further expansion of the urban area. [Urban] planners have been successful in characterizing 'urban sprawl' as a cardinal sin, making it almost impossible to objectively discuss the natural growth patterns of cities."

But densification, Cox maintains, rests on a mistaken assumption — that if a city is dense enough, we'll get out of our cars in sufficient numbers to make a difference.

Instead, Cox wrote, densification does exactly the opposite. Most people continue to use their cars, but in a slower, less

efficient flow of traffic.

"Behind this attempt to concentrate new housing near transit stops throughout the urban area is an illusion that by forcing people into higher densities, they will use cars less. There is little hope of this. A recent Statistics Canada report indicates that once the distance from downtown exceeds 10 kilometres, the travel behaviour of residents is virtually the same."

As for public transit replacing the automobile?

Can't be done, Cox argues. The public money needed to do so would exceed the metro area's gross domestic product. The only transit routes that make economic sense flow downtown. (And undeniably, public transit has helped reduce car use in the downtown by 20 per cent.)

Yet the majority of jobs in Canadian cities are now located outside the downtown core.

So is the majority of growth in urban areas. In Vancouver, 87 per cent of economic growth has taken place outside of city limits.

"Today's metropolitan areas are no longer dominated by downtowns. In all of the six major metropolitan areas (over 1,000,000 population) of Canada, transit provides good access to downtown. However, downtown is not so important as a travel destination as the skyscrapers would lead you to believe. Overall, approximately 14 per cent of the employment is downtown, and 86 per cent is located elsewhere."

As for the environmental argument that more transit and densification would help reduce greenhouse gases and air pollution:

"It is not necessary," Cox wrote. Improving the fuel efficiency of cars is a far more effective way to reduce emissions, he said.

"A report by the U.S. National Academy of Sciences found that smart growth policies would have only marginal impacts on GHG emissions over the next 40 years."

The other facet of densification Cox takes to task is the effect he claims it has on housing prices.

For one thing, densification hasn't led to lower housing prices. For another, densification calls for the rationing of land in the form of land restrictions like the Agricultural Land Reserve here and the Greenbelt in Metro Toronto. The pressures of land restrictions, however, pushes the limits of affordability beyond many would-be homeowners.

"Considerable concern has been expressed about rising house prices in Canada," Cox wrote.

<http://www.demographia.com/dhi.pdf>
<http://www.demographia.com/d-new.htm>

"There are good reasons for this, since Vancouver has emerged as the most unaffordable major market outside of Hong Kong in our annual survey. (Cox's consulting firm, Demographia, publishes an annual global house-affordability survey. Last year's ranked Vancouver at the top spot.) House prices in Vancouver are more than three times the level that would be expected based upon incomes."

Which is to say, densification and mandated green spaces may preserve farmland, but the costs of that, in terms of housing pressure, are borne primarily by the middle and lower classes.

In effect, Cox is saying, it's a policy driven by the esthetic pretensions of affluent urbanistas, and a burden shouldered by the less affluent looking for cheaper housing.

Much of this in a city like Vancouver seems counter-intuitive, and given the ascendancy of the densification philosophy here, worthy of further discussion.

pmmcartin@vancouver.sun.com

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June 1/2012

Your Worship & Members of Council,

At a regular FONVCA meeting of May 16th 2012 the issue of equity was again discussed with respect to access to the DNV council agendas. The following motion was passed unanimously by those members present that:

“Mayor & Council be advised that they are disenfranchising a portion of the population who do not have web access, by the District not posting the Council agenda in the North Shore News.”

FONVCA thus urges council to consider remedying this inequity so that all DNV citizens are able to partake in the democratic process on an equal footing. It is left to you, our elected leaders, on how this inequity can best be resolved.

Yours truly,

Diana Belhouse,

FONVCA Chair Pro-tem

Tel: 604-987-1656

FONVCA Agenda Item 4.1

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June 11 - Council Workshop	Agenda & Council Clips	Agenda & Reports			
June 11 - Special Meeting	Agenda & Council Clips	Agenda & Reports			
June 12 - Council Workshop	Agenda & Council Clips	Agenda & Reports	Presentation		
June 18 - Regular Meeting					
June 25 - ...					

June 1/2012

Your Worship & Members of Council,

At a regular FONVCA meeting of May 16th 2012, as a result of correspondence from a local resident (redacted version attached) the issue of health/home care was discussed.

The following motion was passed unanimously by those members present that:

“FONVCA write to Mayor & Council to encourage Council to bring to the UBCM (Union of BC Municipalities) a resolution asking the BC Government to pass legislation changing the fee schedule to create financial incentives for home (medical) visits.”

During discussion of this issue, attendees were encouraged to individually, through their respective association, to **also** back the Ombudsman’s report ^(1,2)

We have an opportunity, at the local level, to make a difference on an issue which, sooner or later, impacts us all, and ask our local municipal council to continue the dialogue, via the UBCM, with the Provincial Government.

Yours truly,

Diana Belhouse,
FONVCA Chair Pro-tem
Tel: 604-987-1656

1. http://www.carp.ca/2012/02/24/wp-content/uploads/2012/02/BC-Seniors_Report_Volume_1.pdf
http://www.carp.ca/2012/02/24/wp-content/uploads/2012/02/BC-Seniors_Report.pdf
2. <http://www.carp.ca/2012/02/24/bc-ombudsmans-delivers-trenchant-new-report-government-responds-with-seniors-action-plan-2/>

I have had recent experience with Vancouver Coastal Health and the problems with accessing services and the confusing duplication of jurisdictions which provide those services.

There is the Lions Gate Hospital Outreach program of dieticians, physiotherapists, occupational therapists, pharmacists, and social workers, all duplicated by Community Care Services, and the Geriatric Outreach Program. The wound care nursing is part of one of these programs - but try and get help once they decide the patient is healed – you have to start all over with the “Case Manager”. Big problem here: lack of shared information about the patient’s condition.

So my first recommendation is this: the whole system needs a thorough review to stop unnecessary duplication and make it more efficient and less costly (e.g. reduce high administrative salaries) and that the DNV Mayor & Council send a resolution to the UBCM asking the Provincial Government to do this.

This all started for me last spring when I tried to find out about the day-care offered one or two days a week to people with Alzheimer’s or various degrees of dementia. I learned there’s a year long waiting list and cost is determined by the patient’s last income tax return, with some paying very little and others considerably more. Volunteers are used in these programs – one at West Van Seniors Centre, the other at Mahon Park at the Margaret Fulton Centre.

The second big concern I have is the virtual impossibility of getting a doctor to make house calls, even though patients cannot go to their Dr’s office.

Three weeks before my husband died, I finally was able to access a retired doctor, one of five who makes house calls for elderly home bound patients. He has 280 patients under his care and told me most G. P.’s won’t do this because it’s not paid well enough, or they simply are not interested.

I should explain that I had home care 24/7 for my husband and went the private route for everything. Coastal Health would have charged 50% more because we had saved enough to cover home care costs.

I had hand rails installed all through the house, special bathroom & bath equipment, wheelchair, transfer chair, walker, finally an electric lift in the bedroom, hospital bed etc. and private physiotherapy, message therapy, diabetic foot care etc. who came to the house.

For those of you unfamiliar with this, I should mention it is possible to borrow some equipment for a donation from the Red Cross for a 3 month period. Otherwise you must rent it or buy it. Only a physiotherapist can arrange for you to access the Red Cross.

Second Big Question: Why is our government not doing anything about the problem of the lack of doctors making house calls?

The Community Charter s.8(3)(i) allows municipalities to regulate, prohibit, and impose requirements relating to public health. Regional districts may, under section 523 of the Local Government Act regulate and prohibit for the purposes of maintaining, promoting, or preserving public health and can undertake measures considered necessary for these purposes.

Section 2(1) of the Public Health Bylaws Regulations establishes that bylaws relating to the protection, promotion, or preservation of the health of individuals are subject to concurrent authorities. So before such a bylaw can be adopted it must have been submitted to the Minister of Health Services and the regional health board or medical officer for approval.

So it is possible for a municipality to have some say over the way our local health system is managed.

The government is really encouraging home health care to take the burden off acute care hospital beds, but it is NOT making it happen.

This is a problem which affects the quality of life for all of us – and quality of life is a major consideration for community associations.

My second recommendation therefore is that FONVCA ask the DNV Mayor & Council to bring to the UBCM (Union of BC Municipalities) a resolution asking the BC Government to pass legislation changing the fee schedule to create financial incentives for home visits.

I could say a lot more but time is of the essence. I was given an excellent article about the recent Ontario experience which pointed out the lack of training for family medicine residents to do house calls, that doctors in rural areas are more likely to do house calls, the need for medical leaders who want to change the culture of family medicine to value house calls for the elderly infirm; and that medical school stress this aspect of medical care.

So please think about this. I am not a single voice crying in the wilderness. This concerns all of us –we're all getting older, baby boomers too – Let's ask DNV to lead the way via the UBCM this fall.

FONVCA Agenda Item 5.1 (1)

http://www.fonvca.org/letters/2012/14may-to/Doug_Curran_15may2012.pdf

Subject: Fwd: Fwd: Capilano Gateway Association 2012 AGM and reports
From: Brian Platts <bplatts@shaw.ca>
Date: 15/05/2012 9:55 PM
To: Corrie Kost <corrie@kost.ca>

----- Original Message -----

Subject: Fwd: Capilano Gateway Association 2012 AGM and reports
Date: Tue, 15 May 2012 21:48:36 -0700
From: Douglas Curran <dougcurran@shaw.ca>
To: fonvca@fonvca.org

Begin forwarded message:

From: Douglas Curran <dougcurran@shaw.ca>
Date: May 15, 2012 9:44:09 PM PDT
To: Natasha Letchford <letchfordn@dnv.org>, James Gordon <gordonj@dnv.org>
Cc: Douglas Curran <capgatewayassoc@gmail.com>
Subject: Capilano Gateway Association 2012 AGM and reports

Hello Natasha,

The Capilano Gateway Association held it's 2nd Annual General Meeting on May 9, 2012. Attached are the AGM announcement, Minutes of the meeting as well as the new Constitution presented and adopted by the membership at the AGM.

The meeting Minutes and Constitution will also be posted on our CGA blog and the community at large notified of their posting. If there is any other information required to ensure we meet the DNV criteria for maintaining our status as a DNV-recognized community association we welcome hearing from you.

sincerely, Doug

----- Attached Message Part -----

----- Attached Message Part -----

----- Attached Message Part -----

----- Attached Message Part -----

Douglas Curran
2046 Curling Road
North Vancouver, B.C.
Canada V7P 1X4

Ph: 604-985-5621
www.dougcurranphotos.com

----- Attachments: -----

Appendix B CGA AGM 2012.ppt	27 bytes
Attached Message Part	249 bytes
2012 AGM Minutes.doc	27 bytes
2012 AGM Minutes.doc	27 bytes
Attached Message Part	249 bytes
CGA 2012 Constitution.doc	27 bytes
CGA 2012 Constitution.doc	27 bytes
Attached Message Part	249 bytes

AGM Agenda May 9, 2012.doc	27 bytes
AGM Agenda May 9, 2012.doc	27 bytes
Attached Message Part	898 bytes

CAPILANO GATEWAY ASSOCIATION CONSTITUTION

Mandate and Objectives

The Capilano Gateway Association (CGA) has been created as a volunteer community organization to foster and develop community pride by encouraging involvement in the neighbourhood and community development, thereby enhancing the social well-being and interaction of the residents.

The Executive Board will communicate regularly to discuss issues brought to their attention by the Municipality or residents as these issues arise.

BYLAWS

1. Geographic Area

The geographic area of interest for the CGA is as follows: Marine Drive northward to the Upper Levels Highway, Capilano Road westward to the Capilano River, and the Woodcroft apartment complex.

2. Membership

Membership in the Association is voluntary and all property owners, leaseholders and persons living within the geographic area described above shall be eligible to join the Association upon the payment of the annual dues that shall be determined from time to time.

For any new members, the application form for Membership can be attained on line or by request from an Executive Board member.

Notwithstanding the above, CGA welcomes and accepts Associate Membership (non-voting) from individuals living outside the described boundaries of the CGA.

3. Election of Executive Officers

- i) At each Annual General Meeting (AGM) the eligible voters who are present in person or by proxy at the meeting shall elect the Executive Officers from amongst the registered members in good standing.
- ii) For a Member to stand for an Executive Officer position; their Membership application and dues must be submitted not less than 1 week prior to the AGM.
- iii) All nominations for Executive Officers will be accepted from the floor at the AGM, either in person or by communication to the Chair prior to the meeting.
- iv) There shall be a minimum of 3 and a maximum of 5 Executive Officers elected.
- v) The Executive Officers will serve one term until the elections at the next AGM.
- vi) At the first Executive Meeting the elected Executive Officers shall appoint a Chairperson, Vice Chairperson and a Secretary/Treasurer.
- vii) During Executive meetings; in the event of a tie on a voting decision, the Chairperson shall have the deciding vote.
- viii) Any vacancy of a position on the Executive Board that occurs between AGMs shall be appointed by the Executive Officers from amongst the membership.

4. Annual General Meeting

- i) The Annual General Meeting (AGM) shall be held within 14 months of the last AGM.
- ii) Notice of the AGM shall be given to the eligible membership 2 weeks prior to the AGM by way of written notice or email.

Appendix A - CGA constitution adopted at the May 9, 2012 AGM

- iii) The notice of the AGM or Special General Meeting (SGM) must include an agenda with a description of the matters that will be voted on at the meeting, including the proposed wording on any resolution requiring a 2/3 vote.
- iv) All business at the AGM or SGM may not be conducted unless a quorum is present (or unless a ½ hour delay is provided for alternative quorum as defined below).
- v) A quorum for an AGM or SGM is eligible voters holding 1/3 of the membership's votes, present in person or by proxy.
- vi) If within ½ hour from the time appointed for the meeting a quorum is not present, then the eligible voters in person or by proxy constitute a quorum.

5. Voting

- i) An eligible voter is as outlined in Section #2 Membership.
- ii) To vote at meetings members must be in good standing, over the age of 18 and have paid current annual dues at least one week before the AGM.
- iii) One vote per registered household on business matters other than the election of Officers of the Board, where it is 1 vote per membership.
- iv) At the AGM, all matters are decided by majority vote, unless a 2/3 vote is required for any Resolution

6. Minutes of Meetings

The secretary of the Association will maintain minutes of meetings and records of other business that may come before the association. Copies of the minutes will be available to registered members of the association, on request, via email and/or the CGA Blog site.

7. Contacting the Association

The association may be contacted by phone, email or mail. Accepting that the association is a volunteer community group, the executive will undertake to place concerns and information brought to them before the general membership in the most efficient methods possible.

8. Duties of the Executive Board

In performing the duties of the Association, the Executive Officers shall act honestly and in good faith with a view to the best interests of the Association, to exercise the care, diligence and skill of a reasonably prudent person in comparable circumstances.

GENERAL RULES

The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Association in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the Association may adopt.

CAPILANO GATEWAY ASSOCIATION

2012 ANNUAL GENERAL MEETING - MINUTES

Date: May 9, 2012 **Time:** Start 7:10 pm

Location: Capilano Rugby Club, 305 Klahanie Court

Participants:

Gunilla Oberg: Meeting Chair

Douglas Curran; Chairperson

Kim Belcher; Treasurer

Elaine Grenon, Secretary

CGA Members: 23 Present, 14 Represented by Proxy, 11 Absent

1. **A Quorum was established** by Gunilla Oberg, Meeting Chair

2. **Approval of the Agenda**

A motion to approve was made by Mike Riley, 2nd Catherine O’Kane. Passed by a vote of members

3. **Approval of the minutes of the last AGM May 12, 2011**

A motion to approve was made by Art Philips, 2nd by Jim Morrison. Passed by a vote of members.

4. **Chairperson Report** - Executive Board and CGA Activities Overview

Key issues and accomplishments were presented and open to the membership for discussion.

The presentation slides are appended to the minutes (**Appendix B**)

◆ CGA Accomplishments May – June 2011

- Lower Capilano Community Services Enhancement initiative Grant proposal finalized and signed off. (\$2,000 in funding approved for “Big Bench Sessions” Fall 2011)
- Initial development of the work plan for three “Big Bench” educational and collaborative sessions in alignment with and to support OCP implementation.
- CGA blog site and general communications strategies developed. Discussion related to communications was brought forward under New Business.

◆ Lower Capilano Community Centre Tour August 4, 2011

- Informed planning for the conceptual community centre within the Lower Capilano-Marine Drive Village Center plan.
- Highlighted the need for community partnerships and not-for-profit community involvement in community center operational model.

◆ Sept 21st, Oct 26th, Nov 30th – Building a Healthy Community Big Bench Sessions

- A brief overview of the final report to include outcomes was presented. – see Appendix B or the CGA Blog site for more detail.

◆ Beets, Bees and Beauty, Sustainable Garden Workshop, Belle Isle Park on Sunday May 27th

◆ An Advancing Urban Agriculture 2012/13 Proposal to Vancouver Coastal Health was approved for \$1,500 in funding to support a Sustainable Garden Workshop. An additional \$500 has been granted by the Lower Capilano Neighbourhood Enhancement Fund. All area residents are invited to attend.

◆ Key Issues – Community Engagement and the DNV decision making process

- CGA Executive developed recommendations for an open process that informs and engages all relevant stakeholders for decision making. Presented by a CGA delegation to DNV Council Monday October 17th 2011.
- FONCVA (DNV community association representatives) Gaps in municipal governance have been identified. The role of FONCVA in decision making and adherence to DNV criteria for membership, resident’s rights and legitimate representation are key issues.

- ◆ Lower Capilano Partnership Committee. CGA became a partner June 2011 (check date)
 - This group was formed as an interim group to address a need for the coordination of community services and community centre/space.
 - The need for a community-driven operational model for the delivery of services in our community was mentioned.
 - As a member of this group CGA is able to strengthen our partnerships with leaders and service providers in the community and identify gaps in the operational and support systems currently in place.
 - A stronger partnership with Capilano Community Services as a major partner in the community has enhanced our grant funding options.
 - Lionsview Seniors' Planning Society, also a key partner on this Committee, recently held a Seniors Workshop for Lower Capilano stakeholders. Several CGA members attended. Participants strongly agreed on the need for a central meeting/gathering place in our community that could also provide "navigation" and support to seniors.
- ◆ March 2012 - Lower Capilano Community Services Enhancement initiative Grant proposal finalized and signed off. Application for Whole Foods Market Donation finalized and support approved.
- ◆ March 2012 – CGA led the formation of a Fullerton Avenue Streetscape Improvement Committee to include the engagement of a traffic consultant.
- ◆ CGA Executive met with Mayor Walton and have requested:
 - A commitment by DNV Council to a Community Centre in the heart of the Lower Capilano Village and that amenity contributions be invested directly back into the community to include the Community Centre.
 - That design guidelines and access requirements for the streets within and adjacent to the Village Centre be developed as a pedestrian-dominated, livable community and that the Terms of Reference for traffic are provided to us.
 - That the community and developers are partners in any new design concepts and plans for the Village Centre

Discussion by members at the meeting supported the need for planning to include Fullerton, as well as to address laning and access requirements. These issues are important to the scope of the overall OCP plan for the Village Centre as developed during the OCP Conceptual Planning process.

5. Budget Report

2011 Balance		(\$357.09)
Revenue:	Paid members (47)	\$245.00
	Donations (\$)	\$61.00
	Healthy Neighbourhood Fund	\$53.44
	Lower Cap Community Enhancement Grant	\$2000.00
	<u>Total Revenue</u>	<u>\$2359.44</u>
Expenses:	Venue:	\$866.34
	Speakers	\$415.57
	Printing, stationary, blog, development costs	\$361.00
	<u>Total Expenses</u>	<u>\$1642.9</u>
<u>2012 Balance</u>		<u>\$359.44</u>

2012 Committed Grant funding not yet received

Sustainable Garden Workshop VCH Grant	\$1500
Lower Cap Community Neighbourhood Grant	\$ 500
Lower Cap Community Enhancement Grant	\$1300

2012 Expense Budget to date

Sustainable Garden Workshop	
Bees, Beets and Beauty” Budget	\$2000
Ongoing Bench Sessions Budget	\$1300

6. Membership Report

As of May 9th, 2012: **33** Members Renewed, 15 New Members **Total 48 Members**

7. New Business

7.1. Adoption of Revised 2012 Constitution and Bylaws as per Appendix A

- 7.3.1. Motion to revise item **2. Membership** “... all property owners, leaseholders and persons living within the geographic area....” Moved by Art Philips, 2nd by Len (Ian) Carmichael
- 7.3.2. Motion to revise item **5. Voting i)** “An eligible voter is as outlined in section 2. Membership” Moved by Art Philips, 2nd by Kim Belcher
- 7.3.3. Motion to revise **7. Contacting the Association** delete “Issues of concern to members can be posted to the association blog site and/or web site for open discussion.” Moved by Wayne Adare, 2nd by Jai Jadhav.
- 7.3.4. Motion to revise item **5. Voting ii)** “To vote at meetings members must be in good standing, over the age of 18 and have paid current annual dues.” Moved by Jim Morrison, 2nd by Josie Riley
- 7.3.5. Motion to revise item **5. Voting ii)** “To vote at meetings members must be in good standing, over the age of 18 and have paid current annual dues at least one week before the AGM.” Moved by Wayne Adare, 2nd by Jai Jadhav
- 7.3.6. Motion to accept the Constitution with all the proposed revised changes. Moved by John Croockewit, 2nd Elaine Grenon. Passed by a vote of members.

7.2. Election of the 2012 Executive Board

- 7.3.1. A Slate of Volunteers willing to stand for election was presented. Each candidate provided a brief overview of who they are and their reasons for wanting to serve on the CGA Executive Board for the coming year. Candidates included Doug Curran, Kim Belcher, Elaine Grenon, Catherine O’Kane and John Croockewit.
- 7.3.2. Motion to accept the slate of candidates as presented. Moved by Art Philips, 2nd by Wayne Adare. Passed by a unanimous vote of members.

7.3. Communications

Moshe Renert suggested enhancing CGA communications by launching a web based open forum. No motion was forthcoming; however, discussion led to a general consensus that face-to-face meetings allow all neighbours to discuss issues directly, especially given the potentially contentious nature of the issues related to the implementation of the OCP. The need for enhanced opportunities for face-to-face discussions at any community bench sessions and meetings was noted by the CGA Executive.

7.4. Residential Property Values and the Economic Impacts of Development

Moshe Renert expressed the need for more discussion related to this issue. The CGA Executive and many members have expressed a need to have a workshop to address similar concerns. A workshop/education session is being planned to help residents understand the impacts of development and OCP implementation.

8. Meeting Adjourned Motion to adjourn the meeting. Moved by Elaine Grenon, 2nd by Josie Riley

Capilano Gateway Association

AGM May 9th, 2012

- *Approval of the minutes May 12, 2011*
- *Chairperson Report*
 - Executive Board and CGA Activities Overview
(Key issues, accomplishments & discussion)
- *Budget Report*
- *Membership Report*
- *New Business*
 - Adoption of the revised Constitution
 - Election of the 2012 Executive Board

Capilano Gateway Association AGM May 9th, 2012

Chairperson Report

Executive Board and CGA Activities

- Accomplishments
- Key issues
- Discussion

Capilano Gateway Association Accomplishments May-June 2011

- Lower Capilano Community Services Enhancement Initiative Grant
 - \$2,000 in funding approved
 - Work plan for three “Big Bench” sessions to support OCP implementation
- CGA Blog site & communication strategies

www.capilanogatewayassociation.blogspot.com

Lower Capilano Community Centre Tour

August 4, 2011

Parkgate

John Braithwaite

Mount Pleasant

Creekside

- Informed planning for the conceptual community centre within the Lower Capilano Village Center plan.
- Highlighted the need for community partnerships and not for profit community involvement in community center operational model.

Big Bench Sept 2011

**Building a Healthy Community:
The Essential Ingredients”**

Dr. Brian O'Connor, Medical Health Officer, VCH

“Thoughtful design and public policy can do more for the broad general health of the population than can the medical profession.”

Renee Strong, Executive Director Capilano
Community Services Society
Insights into Capilano Community Services

Big Bench October 2011

Creating the Community Living Room “Where Strangers Become Neighbours”

Paula Carr, Collingwood Neighbourhood House

Collingwood Neighbourhood House began “with a group of five people sitting around a kitchen table, wanting to create a caring community”

Twenty-three years later, that dream has become an ever-evolving reality; a multi-service community centre that is intercultural and intergenerational.

Big Bench November 2011

“We Make Buildings/Buildings Make Us: Looking Beyond Green”

Dr. Ray Cole, UBC School of Architecture

Highlighted the “Green Building Challenge”.

- An international collaborative effort to benchmark progress in green building performance
- New insights for projects that can increase social and natural capital.

Cool North Shore overview www.coolnorthshore.ca

Lower Capilano (Big Bench Session) Healthy Community Challenge

My Healthy Community Personal Action Plan

1. What is one small step I can take now to create a healthier community and/or improve my health?
2. Why is my goal important to me and who can I ask to support me?
3. How will I measure my success?
4. How confident am I in my ability to make this change?

What do I want to accomplish?

Volunteer to help others.

Manage my blood pressure

Walk around the block twice a week

Get to know three new neighbours



One small step – Try it and share my experience

Accomplishments

Big Bench Sessions

Number of Participants:

Session #1 43 Session #2 55 Session #3 73

Representation & Engagement:

	Session #1	Session #2	Session #3
<i>Lower Capilano Residents</i>	36	46	63
<i>DNV Planners/Rec, NGO,s</i>	4	5	6
<i>Councillors, other</i>	3	4	4

Accomplishments

Big Bench Sessions cont...

- Informed participants about challenges, as well as, opportunities for a vibrant Village Centre
- Enhanced partnerships, information sharing to support the DNV (OCP) Official Community Plan
- Encouraged participants to take small steps toward creating a healthier community.
- Facilitated ongoing collaboration, education and engagement.

Beets, Bees and Beauty Sustainable Gardening Workshop

Sunday May 27th 1-7pm Belle Isle Park

Keynote Speaker

- Oskar Eriksson: Sustainable Garden Design

Partners and Funding

- VCH Advancing Urban Agriculture Grant for \$1,500
- Lower Capilano Community Neighbourhood Grant
- Whole Foods Community Grant
- Cool North Shore
- Beefriendly.ca
- Capilano Community Services
- District of North Vancouver

Lower Capilano Partnership Committee

- Background
 - Need for the coordination of community services and community centre/space
- CGA becomes a partner
 - Align with the Vision for the OCP
 - Commitment to the Seniors Action Table
 - Partner and advocate for a new operational model for a community centre/neighbourhood house in our Village Centre.

Key Issues – Community Engagement and the DNV Decision Making Process

1. Oct 17, 2011 – Delegation to Council

- Recommendations for an open process that informs and engages all relevant stakeholders for decision making

2. FONCVA (DNV Community Association representatives)

- Role of Community Associations in decision making
- Adherence to DNV Criteria for membership in FONCVA

Fullerton Streetscape Improvement Committee

- To enhance public safety and the pedestrian experience on Fullerton Avenue and Curling Road
- Partner with the DNV and developers
- Committee Working group March 2011
 - Key issues and problems identified
 - Second Meeting with professional traffic planning and design consultants March 28th.

April 25, 2012 DNV Community Workshop, Village Centre Issues

- Request that Council is committed to a Community Centre in the heart of the Lower Capilano Village
- Amenity contributions be invested directly back into the community to include the Community Centre
- Design guidelines and access requirements for the streets within and adjacent to the Village Centre be developed as a pedestrian-dominated, livable community
- The Terms of Reference for traffic are provided to us
- The community and developers are partners in any new design concepts and plans for the Village Centre

Capilano Gateway Association

AGM May 9th, 2012

- *Budget Report*
- *Membership Report*
- *New Business*
 - Adoption of the revised Constitution
 - Election of the 2012 Executive Board
- *Next Meeting*
- *Close*

Capilano Gateway Association 2012 Budget Report

2011 Balance	(\$357.09)
Paid members (47)	\$245.00
Donations (\$)	\$61.00
Healthy Neighborhood Fund	\$53.44
Lower Cap Community Enhancement Grant	<u>\$2000.00</u>
<i>Total Revenue</i>	<i>\$2359.44</i>
Venue:	\$866.34
Speakers	\$415.57
Printing, stationary, blog, development costs	<u>\$361.00</u>
<i>Total Expenses</i>	<i>\$1642.91</i>
<u>2012 Balance</u>	<u>\$359.44</u>

Capilano Gateway Association 2012 Budget Report

<u>2012 Balance</u>	<u>\$359.44</u>
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2012 Committed Grant Funding not yet received

Sustainable Garden Workshop VCH Grant	\$1500
Lower Cap Community Neighbourhood Grant	\$ 500
Lower Cap Community Enhancement Grant	\$1300

2012 Expense Budget to date

Sustainable Garden Workshop	
“Bees, Beets and Beauty” Budget	\$2000
Ongoing Bench Sessions Budget	\$1300

Capilano Gateway Association 2012 Membership Report

34 Members Renewed

14 New Members

Total 48 Members

(estimate four 2011 memberships pending)

Capilano Gateway Association AGM May 9th, 2012

Adoption of the Constitution

- Geographic Area
- Membership
- Executive Officers
- Annual General Meeting
 - Quorum
- Voting

Capilano Gateway Association AGM May 9th, 2012

Election of the 2012 Executive Board

Slate of Volunteers

Doug Curran

Kim Belcher

Elaine Grenon

Catherine O'Kane

John Croockewit

Capilano Gateway Association

AGM May 9th, 2012

The Executive Board wishes to acknowledge the following members for their personal donations to support the work and engagement of the CGA in "Building a Better Community":

Wayne Adare

Lloyd Burbridge

Art Phillips

Mike and Josie Riley

Regula and Rudy Voser

Bob & Audrey Wyber

CAPILANO GATEWAY ASSOCIATION

2012 ANNUAL GENERAL MEETING - AGENDA

Date: May 9, 2012 **Time:** 7:00 pm More info/details: **604-985-5621 / 604-904-2409**
Location: Capilano Rugby Club, 305 Klahanie Court

1. Approval of the Agenda

2. Approval of the minutes of the last AGM May 12, 2011

3. Chairperson Report - Executive Board and CGA Activities Overview

(Key issues and accomplishments will be presented and open to the membership for discussion)

- June 9th 2011
 - i. Lower Capilano Community Services Enhancement initiative Grant proposal finalized and signed off. (\$2,000 in funding approved for “Big Bench Sessions” Fall 2011)
 - ii. Initial development of the workplan for three “Big Bench” educational and collaborative sessions in alignment with and to support OCP implementation.
 - iii. CGA blog site and general communications strategies developed
- August 4, 2011 Lower Capilano Community Centre Tour
 - i. Informed planning for the conceptual community centre within the Lower Capilano-Marine Drive Village Center plan.
 - ii. Highlighted the need for community partnerships and not for profit community involvement in community center operational model.
- Sept 21st, Oct 26th, Nov 30th – Building a Healthy Community Big Bench Sessions
 - i. Final Report submitted March 8th 2012.
- August 22, 2011 – March 2012
 - i. Developed recommendations for an open process that informs and engages all relevant stakeholders for decision making. Presented by a CGA delegation to DNV Council Monday October 17th 2011.
 - ii. FONCVA (DNV community association representatives) Gaps in municipal governance have been identified. The role of FONCVA in decision making and adherence to DNV criteria for membership, resident’s rights and legitimate representation are key issues.
- Jan – May 2012 – CGA becomes a partner on the Lower Capilano Partnership Committee. Capilano Community Services confirms support for grant funding.
- February 2012 – Advancing Urban Agriculture 2012/13 Proposal to Vancouver Coastal Health (\$1,500 in funding for a Sustainable Garden Workshop approved)
- March 2012 - Lower Capilano Community Services Enhancement initiative Grant proposal finalized and signed off. Application for Whole Foods Market Donation finalized and support approved.
- March 2012 – Formation of the Fullerton Avenue Streetscape Improvement Committee

4. Budget Report

5. Membership Report

6. New Business

- ◆ Adoption of 2012 Constitution and Bylaws
- ◆ Election of the 2012 Executive Board

FONVCA Agenda Item 5.1 (2)

http://www.fonvca.org/letters/2012/14may-to/Monica_Craver_16may2012.pdf

Subject: Fwd: Forget liability -- what about responsibility and accountability?
From: Brian Platts <bplatts@shaw.ca>
Date: 16/05/2012 1:51 PM
To: Corrie Kost <corrie@kost.ca>

----- Original Message -----

Subject: Forget liability -- what about responsibility and accountability?
Date: Wed, 16 May 2012 11:02:23 -0700
From: Monica Craver <mecraver@shaw.ca>
To: DNV Mayor and Council <council@dnv.org>
CC: fonvca@fonvca.org

Dear Mayor and Council:

I can't believe that DNV wants to "grow" the mountain biking sport some more! Is DNV being responsible and accountable by allowing so much free ride mountain biking, more trails being built for the sport, including many more so-called "sanctioned" structures inside our public forests? A few years ago, a letter of mine got published "Special to the Vancouver Sun" on mountain biking and why it should be contained inside a recreational resort, properly managed and enforced, with real revenue coming from the sport, not the perceived "millions" mountain biking states it brings in. When you factor in the cost of injuries and environmental degradation, the freeride is just not worth it, in real dollars and "sense".

We need real common-sense solutions for a sport that lacks common sense: [Put mountain biking where it belongs](#)

This is the hard, stark reality of the freewheeling sport that has taken over our public forests and degraded it:

Despite the ongoing work on the trails, there are some serious mountain bike accidents, points out Lions Gate Hospital emergency room physician Dr. Sam Gutman.

"I don't think we have seen any reduction in the frequency or a reduction in the severity of the accidents," he said. "If anything it has increased."

He has one bit of advice for people heading out on their mountain bikes into difficult terrain. "No matter how good the equipment or protection, use good judgment — there is a risk."

Read more: <http://www.theprovince.com/news/Mountain+biker+killed+freak+Cypress+accident+identified/6614478/story.html#ixzz1uzAq0tzJ>

In the same article, the Mark Wood of the NSMBA states: **"We are trying to remove unnecessary risk but still maintain the inherent risk in the sport..."** (??) *What exactly is he trying to say?*

The mountain biking advocates continue to whitewash the inherent danger of their sport to the public: **"NSMBA is a charitable society which builds and maintains safe bike trails on the North Shore."** *Dr Gutman tells us otherwise.*

Other mountain bikers opine:

"I have come to understand that there are consequences with each and every action. How do I manage those consequences? Do the stuff that I am comfortable with, the rest can be left for someone else.

We are coming to a time when the fall out from all these "Extreme" sports are going to come to head. The injuries of years past will start to creep up and there are going to be complications from them.

We seldom look to future and are bent on "living in the present". What will the legacy of our event be in the future? Broken "old" people... or a rich history knowing that the right steps were taken... and that while some accidents do happen... we managed the risk properly. Unfortunately the "Professional Sports World" doesn't see it that way, and neither do sponsors."

"I used to do lots of gaps, drops, stunts, and was starting to feel complacent on some of them, and the new stuff(!) I was looking at had really extreme consequences to failure..."

"It's an uncomfortabl(*sic*) change at first when you realized that some stunts aren't worth the consequences(*sic*). Almost paralyzed(*sic*) myself last year falling off a log 8 feet in the air and that really made me look at what I'm ridding(*sic*). The 20 min high is not worth missing weeks of work and thousands in lost wages and not being able to ride the next week." <http://bb.nsmb.com/showthread.php?t=148672>

(The above comments came out of the Ryan Leech article, I sent to Council, earlier.) Between the damage extreme free ride mountain biking is doing to the folk who ride; its constant pressure on our emergency and health care system; and the forests, you need to face the facts, not the fiction of the sport, nor it's "whitewashing" tactics it uses on the mostly naive and gullible public. *(Sadly, many people do not yet understand what mountain biking is really all about, "out of sight, out of mind", for most.)* And the media continues to glorify this destructive sport, like many extremely dangerous sports, today.

The cost of free ride mountain biking, as it stands in North Vancouver, is much too high -- both on human bodies and the natural environment. Is it really worth all that risk/liability in order to appease this very squeaky-wheeled sports group, at any cost? The present status quo stakes are just too high.

We can't have "green initiatives" being forced onto us, while "the elephant in the living room" continues to wantonly degrade our natural capital in side our rain forests for a cheap thrill. Something has got to give. **Isn't it high time that we "put mountain biking where it belongs"?** And work to protect the natural resources that sustain us? Then we can talk about "green initiatives" in our communities. Until then, it does not make any sense in light of what freeride mountain biking--- riding and building--- activities are doing inside our public forests. **DNV needs to use good judgment, and look to the future with realistic solutions.** The freeride has gone on too long, and is not working. Thank you.

--Monica Craver--

Fwd: Forget liability -- what about responsibility and accountability?

Subject: Fwd: The adverse outcome of freeride mountain biking....
From: Brian Platts <bplatts@shaw.ca>
Date: 17/05/2012 2:36 PM
To: Corrie Kost <corrie@kost.ca>

Post preamble and link to article.

----- Original Message -----

Subject: The adverse outcome of freeride mountain biking....
Date: Thu, 17 May 2012 14:05:12 -0700
From: Monica Craver <mecraver@shaw.ca>
To: DNV Mayor and Council <council@dnv.org>
CC: fonvca@fonvca.org

Dear Mayor and Council:

This is an excellent letter about the Squamish Gondola, Tourism, and lack of environmental concern that can also be applied to the North Shore's mountain biking situation, very much "out of hand", today. ***It best explains what ails us, the Black Bears, cougars, etc.*** <http://www.squamishchief.com/article/20120517/SQUAMISH0303/305179980/-1/squamish/impacts-merit-intensive-analysis>

I sure wish that DNV would take **conservation and protection** of a wetland treasure **(Mtn View Park wetland and upland area)** as seriously as it takes its freeride mountain biking "tourism" insanity that is maiming so many riders.

scaring the wildlife away, and so very destructive to the forest habitat, itself -- **It is too high a price for future generations to pay.**

Rider Down on Neds (<http://bb.nsmf.com/showthread.php?t=148706>) **Inside DNV's Seymour forest area**

05-17-2012

"R. made it out ok, with a broken clavicle, concussion and a deep gash on his right stomach/hip. Doc said that whatever cut him, had it not glanced off his pelvis, it would have sliced through the abdominal wall. Ugly."

"That's a long slog for them (*NS Rescue and fire fighters*) to get there with a stretcher!"

We need to see some real accountability and responsibility from our elected members over the ongoing mountain biking issues. Take care.

--Monica Craver--

Subject: Fwd: Digging faster, harder, deeper... Dirtier...
From: Brian Platts <bplatts@shaw.ca>
Date: 24/05/2012 1:35 PM
To: Corrie Kost <corrie@kost.ca>

----- Original Message -----

Subject: Digging faster, harder, deeper... Dirtier...
Date: Thu, 24 May 2012 12:49:44 -0700
From: Monica Craver <mecraver@shaw.ca>
To: DNV Mayor and Council <council@dnv.org>
CC: fonvca@fonvca.org

Dear Mayor and Council: Does anybody actually ask the question, "WHY?" Why so many "trail days" (because everyday is a Trail Day for mountain bikers somewhere on Mt. Fromme, Seymour, etc., whether "sanctioned" or not). WHY two Trail Days on the same day on what are very clearly trails that cannot sustain any more mountain bikes ripping and shredding down them: Espresso and Executioner (note the trail names say "Ex" in them. They are ex-trails that need to be shut down/decommissioned/closed -- whatever.) -

North Shore Mountain Biking Forums (<http://bb.nsmb.com/index.php>)

- **Article Discussion** (<http://bb.nsmb.com/forumdisplay.php?f=51>)
- - **Espresso Trail Day This Sunday May 27th! (And Executioner too!)** (<http://bb.nsmb.com/showthread.php?t=148820>)

cam@nsmb.com

05-23-2012 09:35 PM

Espresso Trail Day This Sunday May 27th! (And Executioner too!)

-
Yep - it's on. **After all the controversy and negotiation** it's finally time to **put shovel to dirt** and bring **Espresso** some glory. More glory, new glory - we'll leave 'former' alone because that could mean too many things.

The nsmbA will be holding an **Executioner Trail Day at the same time**. We are going to coordinate with that group for food and shuttles - and have a sweet trail love in!

Here is the actual sad truth about all that incessant trail digging, etc. being just as addictive as the riding. Both are equally destructive to the forest floor, among many other environmentally unsound mountain biking misdemeanors:

North Shore Mountain Biking Forums (<http://bb.nsmb.com/index.php>)

- **The Shore** (<http://bb.nsmb.com/forumdisplay.php?f=3>)
- - **Rain** (<http://bb.nsmb.com/showthread.php?t=148763>)

dubprof

05-23-2012 08:57 PM

Quote:

Originally Posted by **Woodro** (Post 2649984)
can't lay gold in the dry bru

I only had sunday off to get some work done....**i was standing in the pouring rain for 3 hours slogging muck trying to do some drainage..i woulda stayed in longer but i think the dog was going to go insane.** Of course it stopped rainy 30min after i got home...

pfft.

DNV has become the great enabler of mountain biking activities. But, I see little, if any DNV enforcement or management practices. Are these mountain bikers ever supervised by a District employee? In any case, I am starting to feel a bit of sympathy for these mountain biking, trail digging fools in the forest. 🙄

Just say NO, the next time they feel so compelled to "dig gold and drainage." You may just help protect a dog from going insane...

Take care.

--Monica Craver--

"If I keep a green bough in my heart the singing bird will come."

~ Chinese proverb

Fwd: North Shore Densification; A Panacea or Apocalypse of the Future?

FONVCA Agenda Item 5.1 (5)

http://www.fonvca.org/letters/2012/14may-to/Irwin_Jerome_30may2012.pdf

Subject: Fwd: North Shore Densification; A Panacea or Apocalypse of the Future?

From: Brian Platts <bplatts@shaw.ca>

Date: 30/05/2012 12:16 PM

To: Corrie Kost <corrie@kost.ca>

----- Original Message -----

Subject:North Shore Densification; A Panacea or Apocalypse of the Future?

Date:Wed, 30 May 2012 01:45:45 -0700 (PDT)

From:Irwin Jerome <jerome_irwin@yahoo.com>

Reply-To:Irwin Jerome <jerome_irwin@yahoo.com>

To:PairofKnees <pairofknees@gmail.com>

CC:fonvca@fonvca.org <fonvca@fonvca.org>

the conclusion of the NSN four-part series on the Changing Face of North Shore Housing, and more recent release of two conflicting points of view, motivated me to write the attached article for your interest.

— Attachments: —

NORTH SHORE DENSIFICATION.docx

18.9 KB

NORTH SHORE DENSIFICATION; A PANACEA OR APOCALYPSE OF THE FUTURE?

By Jerome Irwin

A burning question in the minds of many North Shore residents and their municipalities today is whether or not the philosophy that is fueling the current frenzy towards high-rise/infill housing densification will prove to be a panacea or an apocalypse of the future.

The North Shore News just completed a four-part series on “The Changing Face of North Shore Housing” (May 6th-May 28th, 2012). Yet the most damning omissions in that series was its total avoidance of two opposing philosophies that challenge the very premise of densification and call into question the sanity of the direction in which it seeks to lead the North Shore society of tomorrow.

David Suzuki, well-known Canadian scientist, broadcaster and environmental activist, framed one of these opposing viewpoints in a recent essay (“Environmentalism Has Failed: On Adopting a Biocentric Viewpoint”, [EcoWatch](#), May 3rd, 2012). Suzuki contends the human species everywhere must undertake a *paradigm shift* to meet the challenge of the world-wide crisis the human species has created for itself. Suzuki advocates adopting a biocentric viewpoint, that sees we humans as part of and dependent upon the web of life that keeps the planet habitable, rather than an anthropocentric, self-centered viewpoint that sees everything in life solely revolving around the needs of we humans.

At first glance, Suzuki’s viewpoint might seem like quite a stretch regarding the issue of densification on the North Shore, but it really isn’t at all. Being part of whatever community or neighbourhood on the North Shore, and being dependent upon the web of life of a given neighbourhood that keeps the community habitable, is light years away in perception from the precept that the individual owner has the anthropocentric right and privilege of dominion to basically do whatever he or she so pleases on their property, whether it means: tearing down a heritage home, a house with character or removing all the mature trees, established landscapes and extensive gardens of that property for some massive infill housing project. Historically, the laws and bylaws of whatever municipality has basically protected those anthropocentric rights while essentially ignoring as unimportant or of little consequence to whatever the avowed

biocentric needs, attachments, claims or desires that the surrounding community of human and non-human residents may have had to that lost habitat. The surrounding human community's historical enjoyment of the wild beauty of the property razed, or all the non-human's dependency on that property's plant life and ecology for their habitats and food stuffs, given little importance or precedence. In other words, this is an example, in microcosm, of what Suzuki is talking about in microcosmic terms and the kind of paradigm shift that needs to occur.

However, in regard to the related crisis that we humans on the North Shore face, the North Shore News series made only passing reference to the enormous magnitude and impact of all the historical and on-going loss of heritage, character and natural habitats that have disappeared, or are about to disappear, in the face of the radically-proposed changes to the North Shore's housing stock. Only briefly stated or implied were such critical matters as: redevelopers, whether outside or inside a community, showing little empathy or effort to create any dialogue with the surrounding community about the radical plans they propose; inept, crass forms of architecture that don't suit any part of the community's surrounding landscape or streetscape; the greed that craves to build and expand on evermore allowable square footage of a property; the continual changes to building laws and bylaws to make legal what was formally illegal; developers engaging in block-busting strategies that the regulating authorities cast a blind's eye towards; the wholesale abandonment of little-valued historical bungalows, cottages, and homes; the pre-eminence of money and profits over the sustainability of a community and its established way of life; the lack of regulatory laws and protections to ensure a heritage home or community's right to exist and survive; the major disconnect or divorcement between the majority of North Shore residents and the natural world, mature trees and landscapes that less and less surround their homes, that have instead become concretized fortresses of alienation from the powers and forces of nature.

In a nutshell, what the four-part series in the North Shore News alluded to is the actual gross lack of intimate relationships that we humans on the North Shore have with not only Mother Nature, and the North Shore's ancient forces of life, but with our own individual mothering nature and the healthy, nurturing, life-affirming direction that that nature would intuitively direct us towards if only we would heed it. This same failure to adopt a Biocentric view of life could be said about

Canada, and, indeed, the world as a whole. This is the ultimate paradigm shift on a grand scale, of which David Suzuki speaks.

Yet another damning omission in the North Shore News series was its total avoidance of yet another opposing viewpoint that also challenges the very premise of densification and equally calls into question the sanity of the direction that far too many would lead the North Shore society of tomorrow.

Peter McMartin, a writer with the Vancouver Sun, wrote a piece entitled “Is Vancouver’s Goal of Urban Density Just Plain Dense?” (Vancouver Sun, May 29th, 2012). McMartin’s criticisms of Vancouver’s urban density, and its avowed “Twin-pillared” gospel of the intrinsic benefits of densification and subsequent replacement of private vehicles by public transport, could just as easily be applied to the avowed, wildly optimistic densification goals of the municipalities on the North Shore. McMartin puts forth as his basic argument various points made in a paper by Wendall Cox, entitled “*Mobility & Prosperity in the City of the Future*” (MacDonald-Laurier Institute, May 23rd, 2012)

Cox, a futuristic thinker, and principal of an international public policy firm that specializes in urban public policy, transport and demographics, basically contends that the quality of life in many of Canada’s major cities has been seriously harmed by urban planners *radical densification* policies. Cox puts forth several arguments against the basic premises of densification philosophy. Among those points raised are those which contend that densification’s attempt to: pack people into tight urban spaces, and try to force them to use public transit, is “hopeless”; rather than minimize the cost of living, maximize discretionary income, minimize traffic congestion, or improve economic growth, it does just the opposite, and; instead drives up housing and land prices beyond the affordability for many; fails to reduce greenhouse gas emissions, which cars can actually do more effectively by improving their fuel efficiency, and; can actually retard rather than increase economic growth.

Cox points to such failed densification plans as those in San Diego, where half of all its transportation development monies are to be spent on public transit for the next forty years yet, today, less than 2% of their citizens use transit and projected transit usage will remain under 4% by 2050. Cox also says it is a fallacy that public transport is quicker than automobile trips. His studies (in Toronto, Montreal, Vancouver, Ottawa-Gatineau, Calgary and Edmonton) found that transit trips take 50% longer than trips by cars.

So, given the basic truths espoused by these two opposing viewpoints, what ultimate madness or fallacy can be said to be behind the current frenzy on the North Shore that drives its municipalities to build, or propose to build, so many high-rise towers, high-density village-town centre’s, infill monster houses or commit to tear down and demolish what little remains of its former heritage and character and the North Shore’s once iconic look?

1398 Hope Road, North Vancouver, B.C. V7P1W7 (604) 984-7598 jerome_irwin@yahoo.com

Fwd: Who gave permission for this destructive "TAP" trail reroute?

FONVCA Agenda Item 5.1 (6)

http://www.fonvca.org/letters/2012/14may-to/Monica_Craver_30may2012.pdf

Subject: Fwd: Who gave permission for this destructive "TAP" trail reroute?
From: Brian Platts <bplatts@shaw.ca>
Date: 30/05/2012 12:20 PM
To: Corrie Kost <corrie@kost.ca>

----- Original Message -----

Subject: Who gave permission for this destructive "TAP" trail reroute?
Date: Wed, 30 May 2012 10:43:54 -0700
From: Monica Craver <mecraver@shaw.ca>
To: DNV Mayor and Council <council@dnv.org>
CC: fonvca@fonvca.org

Dear Mayor and Council: As I read the handout from yesterday's workshop on Parks and Engineering's "Adopt-a-Program" proposals, I was taken aback by their mention of the NSMBA's trail adoption program as being a positive venture. In light of their Trail Day activities on Espresso and Executioner Trails on the weekend, it is a very negative venture. Who was supervising this little "hootenanny in the woods", I wonder? This is not a trail adoption, but a whole new trail (called a "reroute" by the mtn. bike trail builders). You need to understand why we need to stop this kind of thing, not encourage more of it.

While much of DNV's newly proposed "Adopt-a-Program" is positive and beneficial to the community, the NSMBA "adoption" programs are very destructive, as you can see from the photos and the video in this little nature-deficit article written in the NSMB.com. [Photos and videos do not lie.](#)

Please check it out:

[Expresso: The Rebirth-NSMB TAP Day 1 2012](#)

This is the stark truth about so-called "trail adoption", mountain biker-style. I cannot understand how DNV can condone this kind of ongoing vandalism in the woods. That is what it is! And this is only the beginning of the most destructive NSMBA TAP "season"...

It looks like the mountain bikers are doing what they did long before without DNV permission. Nothing much has really changed with the NSMBA's destructive activities in our public forests. Nothing, but the fact that DNV now condones this kind of vandalism in our forests, and actually embraces this kind of "mentorship" offered by the mountain biking community. DNV gave this "trail adoption" reroute, permission. This is most shameful!

--Monica Craver--

"When a man destroys one of the works of man we call him a vandal. When he destroys one of the works of God we call him a sportsman."

~Joseph Wood Krutch

Subject: Fwd: A Mountain Biking Allegory
From: Brian Platts <bplatts@shaw.ca>
Date: 31/05/2012 9:36 PM
To: Corrie Kost <corrie@kost.ca>

----- Original Message -----

Subject: A Mountain Biking Allegory
Date: Thu, 31 May 2012 21:17:41 -0700
From: Monica Craver <mecraver@shaw.ca>
To: DNV Mayor and Council <council@dnv.org>
CC: fonvca@fonvca.org

Dear Mayor and Council:

This poem's uncanny. I had to share. *No more to say.* It's all there:

The Ambulance Down In The Valley

**"A Fence or an Ambulance"
by Joseph Malins (1895)
-a poem about prevention -**

'Twas a dangerous cliff, as they freely confessed,
though to walk near its crest was so pleasant;
but over its terrible edge there had slipped
a duke and full many a peasant.

So the people said something would have to be done,
but their projects did not at all tally;
some said, 'Put a fence 'round the edge of the cliff, '
some, 'An ambulance down in the valley.'

But the cry for the ambulance carried the day,
for it spread through the neighboring city;
a fence may be useful or not, it is true,
but each heart became full of pity
for those who slipped over the dangerous cliff;

And the dwellers in highway and alley
gave pounds and gave pence, not to put up a fence,
but an ambulance down in the valley.

'For the cliff is all right, if your careful, ' they said,
'and if folks even slip and are dropping,
it isn't the slipping that hurts them so much
as the shock down below when they're stopping.'

So day after day, as these mishaps occurred,
quick forth would those rescuers sally
to pick up the victims who fell off the cliff,
with their ambulance down in the valley.

Then an old sage remarked: 'It's a marvel to me
that people give far more attention
to repairing results than to stopping the cause,
when they'd much better aim at prevention.

Let us stop at its source all this mischief, ' cried he,
'come, neighbors and friends, let us rally;
if the cliff we will fence, we might almost dispense
with the ambulance down in the valley.'

"Part II" by Herbert Nehrlich (2006?)

So the townspeople met at the top of the cliff
where the workmen put up a strong fence,
woven wire and posts that were hardy and stiff
and they lauded each other's good sense.

For a week the fence stood and no ambulance came
then one morning they woke up to see
that the fence had been cut from the cliff to the tree
in the valley they stood with their shame.

Said a voice from the sky, and they knew it was God
'if you keep people healthy at all
there are forces objecting as they find it quite odd
when no earls and no peasants do fall.'

And instead of a fence on the edge of the cliff
they had placed at the bottom a pool,
where they'd land in the water, not ending up stiff
but each victim was seen as a fool.

And to face their disease that had caused the neglect
they would get a big bucket of pills,
though the cost of it all would not nearly reflect
that they'd taken the fence from the hills.

But the pharmacist said 'it's the minds of all men
they are missing the atoms of dope',
and that medicine taken again and again
was the modern way's spirit of hope.

The old sage who had said that the fence should be built
then spoke up, from the cliff near the edge
but the white coated doc said it must be the guilt
and he gave to the people this pledge.

'You will no longer be in the danger to fall
from the cliff, neither earl nor a peasant,
as the ordinance says that the citizens, all
won't be wandering near any crescent.'

And the sage on the edge while addressing the town
said they're neither your neighbour nor friend.
Both the doc and his buddy then pushed the man down,
off the cliff. ***Thus the story does end.***

--Monica Craver--

"If I keep a green bough in my heart the singing bird will come."

~ Chinese proverb

FONVCA Agenda Item 5.1 (8)

http://www.fonvca.org/letters/2012/14may-to/Wendy_Qureshi_10jun2012.pdf

Subject: Fwd: Lack of transparency at the DNV
From: Brian Platts <bplatts@shaw.ca>
Date: 10/06/2012 2:11 PM
To: Corrie Kost <corrie@kost.ca>

----- Original Message -----

Subject: Lack of transparency at the DNV
Date: Sun, 10 Jun 2012 12:12:13 -0700
From: Wendy Qureshi <wendyqureshi@shaw.ca>
To: North Shore News <editor@nsnews.com>
CC: fonvca@fonvca.org

Dear Editor,

I am writing as I am reading a Notice of Public Hearing advertised in your paper by the District of North Vancouver.

PROPOSED UPDATES TO DEVELOPMENT PERMIT AREAS (SCHEDULE B) OF THE DISTRICT OFFICIAL COMMUNITY PLAN

The proposed bylaw 7934: The District of North Vancouver Official Community Plan Bylaw 7900, 2011 Amendment Bylaw 7934, 2012 (Amend

There is zero mention of what this really means.

In the City of North Vancouver and ALL other BC municipalities they publish the civic addresses.

I attended the Public Hearing regarding the re-zoning and the dedication of Eliza Kuttner Park.

Nowhere in the agenda for that public hearing was Eliza Kuttner's name even mentioned.

Wendy Qureshi
North Vancouver
604-980-1885

Symbolic example of how heritage and character are lost in a community

FONVCA Agenda Item 5.1 (9)

http://www.fonvca.org/letters/2012/14may-to/Irwin_Jerome_13jun2012.pdf

Subject: Symbolic example of how heritage and character are lost in a community

From: Irwin Jerome <jerome_irwin@yahoo.com>

Date: 13/06/2012 2:54 PM

To: "fonvca@fonvca.org" <fonvca@fonvca.org>

CC: Corrie Kost <corrie@kost.ca>

Corrie

FYI

Recently, while going through some of my community files, I came across two dramatic photographs of how seminal change has come to Lower Capilano Community. In light of the North Shore News recent Four-Part Series on the Changing Face of North Shore Housing, it seemed timely to use some notes from 20 years ago to pen the attached piece. Cheers!

— Attachments: —

HOW HERITAGE CHARACTER ARE LOST.pdf

224 KB

HOW HERITAGE & CHARACTER CONTINUES TO DISAPPEAR ON THE NORTH SHORE

The loss of heritage and character in communities all over the North Shore hasn't happened all at once. For decades, the incremental decay has occurred slowly, like the power of water that dramatically changes everything around it, one drip at a time.

These historical drips, that collectively have become a veritable flood in each of the North Shore's municipalities, have occurred for a multitude of reasons:

- a council's choice of bylaws intentionally written, either by inclination or at the behest of development-minded lobby groups;
- an avaricious real estate interest whose sales, marketing and block-busting strategies encourages and facilitates the decay;
- a home owner who knowingly sells to a developer who would demolish their home, but offers them a slightly higher price than a buyer who has expressed a keen desire to protect and preserve the home for posterity.

The two operative words here are: *Greed & Indifference*. Greed and Indifference representative of what one might either call: an unexpressed mutual agreement of understanding, or; the collective conspiracy of a civilization. Both fuelled, in either case, by the commonly-held, quasi-religious belief in the unshakeable inevitability of perpetual economic growth and the acquisition of ever more financial capital, regardless of whatever undesirable changes they may create in human society, as the only possible way that modern civilization can continue to evolve. Everything that gets in its way: Expendable! The notion of making some kind of dramatic *Paradigm Shift* to some other way of being and evolving: Unthinkable! These beliefs may never even be openly verbalized or consciously known, but the blind eye's effect to the constant myriad of legacies lost is one and the same.

So, as the years slowly pass, the absence or lack of enough vigilant gate keepers, watchdogs and activists to question and challenge the inevitability of this belief system, means that a community that once was a cultural, visual and aesthetic asset becomes something entirely different again. The result generally proving to be a far less liveable or attractive asset, due to the constant mitigating influences of:

- zoning regulations, codes and variances which continually allow for ever more height, greater mass and removal of a lot's original mature trees, established landscapes and extensive gardens;

- “cookie-cutter” housing plans and often shoddy construction practices that are more pragmatic, expedient and utilitarian in design than their more novel, imaginative, aesthetic predecessors;
- use of cheaper, inferior building materials and synthetic, non-organic products, that, from an aesthetic perspective, not only are less attractive but, in the future, will not withstand the vagaries of weather and time and, in due course, will, themselves, be torn down after perhaps only a few decades. Ergo: a throw away culture and civilization created in perpetuity.

One illustrative *Before & After* case in point of what typically has occurred, and continues unabated, on the North Shore is the destruction of one particular home that only two short decades ago once was nestled in the heart of Lower Capilano Community, one of the oldest communities located on the North Shore’s District of North Vancouver, located atop the ancient flood plains of the Capilano River.

1793 TATLOW AVENUE



BEFORE



AFTER

Like many other cottages, bungalows and small houses of its kind, this Tatlow Avenue home once embodied the same old-world charm and ambiance of yesteryear that, in some circles, has come to be dubbed a *North Shore Iconic* style of architecture. This iconic look, that assumed many different styles and designs, once, not too very long ago, could be found nestled in all the surrounding streets of not only Lower Capilano but everywhere on the North Shore, from Horseshoe Bay to Deep Cove. But now, the vast majority of them, and the flavour they once gave to daily life all along the Shore, are either long gone or fast disappearing. Only a few old-time residents can even recall what that original house on Tatlow Avenue once looked like, and newcomers to the community can only try to imagine.

Solely, by the limited standard of age, or the fact that apparently no official building plans for it ever existed, the original house that once stood at 1793 Tatlow Avenue, on the corner of Hope Road, wouldn't have been deemed to be "heritage" because it is said to have only been built in 1947. Back then, though, there were many creative, industrious, local home-builders all over the North Shore, who were busy building their own unique, non-conforming versions of what a dream house should be. Today, however, rather than consider these one-time manifestations of someone's long-gone visionary dreams to be of potential heritage quality, with however much character they may possess, the powers-that-be otherwise tend to refer to them, in more dismissive, bureaucratic terms, as simply *non-conforming properties*, worthy of no other accolade other than that of being eventual *tear-downs*.

So, in 1992, that potential heritage home of the future on Tatlow Avenue, with its once stone foundation, lead-glassed windows, rustic-chimney, huge fireplace in a step-down living room-den, quaint gabled bedrooms, surrounded by the last massive native-growth Sitka Spruce and Douglas Fir trees left in the community, simply had to go the same way as so many other hauled away splintered timbers, broken bricks and piles of stones.

It had to go because the newcomers to Canada and Lower Capilano who acquired the property didn't see it in the same light as the surrounding community of long-time residents. Culturally or aesthetically they couldn't identify with the human and natural heritage it represented to the North Shore. Their Gentleman's Agreement to at least save the property's native growth trees and rich landscapes, that was a highly treasured *viewscape* by the neighbourhood, wasn't kept, though, because they couldn't identify with that either. The newcomers had their own idea of how several 'Vancouver Specials' could be squeezed onto the lot for maximum density advantage. So what was built was built. Nothing was in place to stop them or the other "Special's" and "Monsters" that since have everywhere sprouted like weeds, while still more treasured viewsapes continue to everywhere fade away like ghost-fogs.

Okay! It goes without saying! Canada is a democracy! Sure, everyone deserves a fair go and right to their own dreams! But when do all those new exercised rights overstep themselves and violate the same rights, dreams and older established traditions of a given larger community? The way the card game is set up, the cards are ideologically stacked against these larger collective rights, dreams and traditions. In a manner of speaking, its heritage, character and viewscape *Be Damned!* So, once again, everything is expendable and little is sacred. In the end, even the newcomers will find this out some day.

But, in the meantime, those things that are considered to be sacred and inviolate, that will most assuredly continue to increase, include: an ever hungry tax revenue base; exponential population density; and the course and direction of how the way of life and lifestyles of those on the North Shore will look in the future, when accrued in the hands of an ever smaller select privileged few. And so it will go until.....what?

Words (1,054)

Jerome Irwin, 1398 Hope Road, North Vancouver, B.C. V7P1W7 (604) 984-7598

jerome_irwin@yahoo.com

Statement by FCM president Karen Leibovici following the Supreme Court's decision on the Payments in Lieu of Taxes Act (PILT Act) (15/06/2012)

The following statement was released today by Karen Leibovici, President of the Federation of Canadian Municipalities (FCM), following the decision of the Supreme Court of Canada on the Payments in Lieu of Taxes Act (PILT Act):

"Today's Supreme Court unanimous ruling on the Payments in Lieu of Taxes Act (PILT Act) confirms the responsibility of the federal government to compensate municipalities fairly for federal properties within their communities. This ruling signals that the Government of Canada cannot arbitrarily set a value on its properties, and must pay their taxes like any property owner.

Municipal governments stand ready to work with the federal government to improve its Payments in Lieu of Taxes (PILT) system, so that it meets the needs of both federal property owners and the local governments that provide them with critical services.

The court's decision will help cities and communities across the country collect the funds they are fairly owed for the services they provide to federal properties, like fire protection, policing and transportation access.

Fair and predictable PILT revenues are crucial for municipalities to meet their growing list of responsibilities, many of which are downloaded by other orders of governments, while collecting just eight cents of every tax dollar paid by Canadians."

Page Updated: 15/06/2012

Federation of Canadian Municipalities

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Source: <http://scc.lexum.org/en/2012/2012scc29/2012scc29.html>

SUPREME COURT OF CANADA

CITATION: Halifax (Regional Municipality) v. Canada (Public Works and Government Services), 2012 SCC 29

DATE: 20120615

DOCKET: 33876

BETWEEN:

Halifax Regional Municipality

Appellant

and

Her Majesty The Queen in Right of Canada, as represented by the Minister of Public Works and Government Services

Respondent

- and -

City of Toronto, Federation of Canadian Municipalities, Association of Canadian Port Authorities and City of Québec

Interveners

CORAM: McLachlin C.J. and LeBel, Deschamps, Fish, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ.

REASONS FOR JUDGMENT:

Cromwell J. (McLachlin C.J. and LeBel, Deschamps, Fish, Abella, Rothstein, Moldaver and Karakatsanis JJ. concurring)

(paras. 1 to 59)

NOTE: This document is subject to editorial revision before its reproduction in final form in the *Canada Supreme Court Reports*.

HALIFAX (REGIONAL MUNICIPALITY) v. CANADA

Halifax Regional Municipality

Appellant

v.

Her Majesty The Queen in Right of Canada,

as represented by the Minister of Public

Works and Government Services

Respondent

and

City of Toronto,

Federation of Canadian Municipalities,

Association of Canadian Port Authorities and

City of Québec

Interveners

Indexed as: Halifax (Regional Municipality) v. Canada (Public Works and Government Services)

2012 SCC 29

File No.: 33876.

2011: December 12; 2012: June 15.

Present: McLachlin C.J. and LeBel, Deschamps, Fish, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ.

on appeal from the federal court of appeal

Crown law — Real property and immovables — Taxation — Payments in lieu of taxes — Minister's valuation of Halifax Citadel National Historic Site millions of dollars lower than value determined by local assessment authority — What is the scope of Minister's discretion to determine "property value" for purposes of making payments in lieu of taxes — What standard of judicial review applies to determination — Was Minister's determination of property value reasonable? — Payments in Lieu of Taxes Act, R.S.C. 1985, c. M-13, ss. 2(1) and 4(1) — Assessment Act, R.S.N.S. 1989, c. 23, s. 42(1).

Under the *Payments in Lieu of Taxes Act* (the Act), the Minister of Public Works and Government Services may make payments in lieu of taxes (PILTs) with respect to federally owned property, which is constitutionally exempt from provincial and municipal property taxation. The Minister made PILTs to Halifax with respect to the Halifax Citadel National Historic Site on the basis of a valuation of the site with which Halifax disagreed. Halifax and the Minister were able to agree on the value of the eligible improvements on the site, but not on the value of the structures called casemates and demi-casemates or of the land on the Citadel site. The matter was referred to a dispute advisory panel, which advised the Minister that the land beneath the casemates and demi-casemates should be valued at \$1,550,000 while the 42 acres of land beneath a grassy slope called the glacis should be valued at a nominal \$10. It also provided a valuation for the casemates and demi-casemates. The Minister accepted the Panel's advice and made further PILTs in accordance with it. Halifax applied for judicial review in the Federal Court, saying the valuation of the land and of the casemates and demi-casemates was unreasonable and the court agreed. This decision was reversed with respect to the land by a majority of the Federal Court of Appeal. The present appeal relates only to the valuation of the land.

Held: The appeal should be allowed and the matter remitted to the Minister for redetermination.

The Minister's role under the Act is not to review the assessment authority's assessment; the Minister's function with respect to the value of federal property is to reach an opinion about the value that would be attributed by an assessment authority if the property were taxable. This is done in the context of exercising the discretion to make a PILT that must not exceed the product of the effective rate of tax and the property value as per the Act. While the view of an assessment authority is an important reference point for the Minister, in reaching his or her opinion the Minister is entitled to make an independent determination of the value that would be attributed to the federal property by a local assessment authority.

The Minister's opinion must be informed by the tax system that would apply to the federal property in issue if it were taxable. Provided that the Minister applies the correct legal test, his or her exercise of discretion is judicially reviewed for reasonableness.

The Minister's decision in this case is unreasonable. It is unreasonable, first, because the manner in which the Minister formulated his opinion was inconsistent with his obligation to form an opinion about the value that would be established by an assessment authority. The Minister attributed nominal value to the land under the glacis solely on the basis of the impossibility of developing it. Not only did the Minister not adopt the approach which the relevant assessment authority actually would apply to value the property, but he also had evidence before him, apparently not contradicted, that other Canadian assessment authorities would not attribute nominal value to land on the basis of use restrictions resulting from a national historic site designation. And there was no evidence that any assessment authority would do so. The Minister cannot base his valuation on a fictitious tax system that he himself has created, but that is exactly what happened in this case.

The Minister's opinion is also unreasonable on a second ground: in coming to his decision the Minister frustrated the purposes and policies of the Act. The Minister adopted a categorical approach to valuation under which federal property is valueless if its status as a national historic site prevents its development or commercial use. In doing so he defeated Parliament's purpose in including national historic sites within the PILT scheme. The Minister's approach had the effect of frustrating the very legislative scheme under which the power is conferred.

The Minister's position is also at odds with the broader policy of the Act, which is to treat municipalities fairly. It can hardly be thought either fair or equitable to conclude that 42 acres in the middle of a major metropolitan centre has no value for assessment purposes.

Cases Cited

Applied: *Montréal (City) v. Montreal Port Authority*, 2010 SCC 14, [2010] 1 S.C.R. 427; **referred to:** *Lake v. Canada (Minister of Justice)*, 2008 SCC 23, [2008] 1 S.C.R. 761; *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190; *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708; *Notre-Dame-de-l'Île-Perrot (Paroisse de) v. Société générale des industries culturelles*, [2000] R.J.Q. 345; *Québec (Communauté urbaine) v. Fondation Bagatelle Inc.*, 2001 CanLII 15060; *Gander International Airport Authority Inc. v. Gander (Town)*, 2011 NLCA 65, 313 Nfld. & P.E.I.R. 125; *Ontario (Public Safety and Security) v. Criminal Lawyers' Association*, 2010 SCC 23, [2010] 1 S.C.R. 815; *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817; *Oakwood Development Ltd. v. Rural Municipality of St. François Xavier*, [1985] 2 S.C.R. 164; *Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, 2001 SCC 37, [2001] 2 S.C.R. 132; *C.U.P.E. v. Ontario (Minister of Labour)*, 2003 SCC 29, [2003] 1 S.C.R. 539.

Statutes and Regulations Cited

Assessment Act, R.S.N.S. 1989, c. 23, s. 42(1).

Canada National Parks Act, S.C. 2000, c. 32.

Constitution Act, 1867, s. 125.

National Historic Sites of Canada Order, C.R.C., c. 1112, Sch., s. 1.

Payments in Lieu of Taxes Act, R.S.C. 1985, c. M-13, ss. 2(1) “effective rate”, “federal property”, “property value”, (3), 2.1, 3(1)(a), 4(1), 11.1, 15, Sch. II, s. 4.1 [ad. SOR/2001-494, s. 23].

Regulations Amending Certain Regulations made under the Payments in Lieu of Taxes Act and Schedules I to III to that Act, SOR/2001-494, s. 23.

APPEAL from a judgment of the Federal Court of Appeal (Blais C.J. and Evans and Sharlow JJ.A.), 2010 FCA 196, [2012] 1 F.C.R. 304, 405 N.R. 133, 321 D.L.R. (4th) 638, 7 Admin. L.R. (5th) 213, 71 M.P.L.R. (4th) 176, 94 R.P.R. (4th) 15, [2010] F.C.J. No. 950 (QL), 2010 CarswellNat 2417, reversing in part a decision of Phelan J., 2009 FC 670, 346 F.T.R. 264, 61 M.P.L.R. (4th) 187, 85 R.P.R. (4th) 52, [2009] F.C.J. No. 842 (QL), 2009 CarswellNat 2045. The appeal should be allowed and the matter remitted to the Minister for redetermination.

Daniel M. Campbell, Q.C., and *Joseph F. Burke*, for the appellant.

Ginette Gobeil and *René LeBlanc*, for the respondent.

Diana W. Dimmer and *Angus S. MacKay*, for the intervener the City of Toronto.

Marie-France Major, for the intervener the Federation of Canadian Municipalities.

Harley J. Harris and *Michael F. Robson*, for the intervener the Association of Canadian Port Authorities.

Richard Grondin and *Éric Boisvert*, for the intervener the City of Québec.

The judgment of the Court was delivered by

CROMWELL J. —

I. Introduction

[1] The Minister of Public Works and Government Services has determined that roughly 40 acres of the Halifax Citadel National Historic Site of Canada has only nominal value for the purposes of municipal taxation. The main issue on this appeal is whether the Minister’s determination was reasonable. In my

respectful view it was not.

[2] Property owned by the Federal Crown is constitutionally exempt from provincial and municipal taxation. However, in the interest of fairness, Parliament has established a regime of discretionary payments in lieu of taxes (“PILTs”) to provinces and municipalities: *Payments in Lieu of Taxes Act*, R.S.C. 1985, c. M-13. The Minister has discretion to make these payments and as to their amount. However, any payment must not exceed what, in the Minister’s opinion, would be payable if the applicable local rate of tax were applied to the property value as determined by the local assessment authority: ss. 2(1) and 4(1) of the Act.

[3] The Minister has exercised his discretion to make PILTs to Halifax in respect of eligible parts of the Citadel; to do so on the basis of the full value of those aspects of the property that are subject to the Act; and to use the rate of taxation identified as the applicable one by the local assessment authority. What remains contentious between the Minister and Halifax is the value of the property.

[4] It follows, therefore, that only one, quite narrow aspect of the Minister’s discretion is in issue here. This appeal does not concern the Minister’s exercise of discretion to decide whether to make PILTs. It does not concern his discretion to decide whether those PILTs should be for an amount less than the maximum permitted by the Act or his discretion to determine the rate that would be applied by an assessment authority. The appeal concerns *only* the Minister’s determination of “property value”.

[5] The Minister in this case decided that a national historic site is effectively valueless if it does not support economically beneficial uses. He therefore concluded that roughly 40 acres of the Citadel site are worth ten dollars. This conclusion, in my view, is unreasonable for two reasons. First, the property value is to be the value which, in the Minister’s opinion, the local assessment authority would apply to the property: s. 2(1), “property value”. However, in valuing the property the Minister adopted an approach which the record discloses no example of a Canadian assessment authority using, and which significantly differs from the approaches that the record suggests assessment authorities in provinces across the country do use. The Minister’s opinion that the value he arrived at “would be attributable by an assessment authority” has no basis in and is contrary to the evidence. Second, the Minister’s decision is inconsistent with the Act’s purpose. The Act permits payments for national historic sites. To decide that these sites have no value for taxation purposes except to the extent that they could support commercial uses negates the very purpose of their inclusion in the PILT scheme. For these two reasons the Minister’s decision was unreasonable.

II. Brief Overview of the Proceedings and Issues

[6] Halifax disagreed with the Minister’s valuation of parts of the Citadel for PILT purposes. As provided for by the Act, the matter was referred to the PILT Dispute Advisory Panel, which advised the Minister that the land beneath fortification structures called casemates and demi-casemates should be valued at \$1,550,000 while the 42 acres of land beneath a grassy slope called the glacis should be valued at a nominal \$10. This resulted in a total valuation of the land on the site that was millions of dollars lower than the value arrived at by the local assessment authority.

[7] The Minister accepted the Panel’s advice. Halifax applied for judicial review in the Federal Court, saying this was unreasonable. The court agreed: 2009 FC 670, 346 F.T.R. 264. This decision was reversed in part by a majority of the Federal Court of Appeal: 2010 FCA 196, [2012] 1 F.C.R. 304. Halifax now appeals to this Court.

[8] The appeal raises two issues:

1. What is the scope of the Minister’s discretion to determine “property value” for the purpose of making PILTs, and what standard of judicial review applies to his determination?
2. Was the Minister’s determination of the value of the land on the Halifax Citadel site reasonable?

[9] It will be helpful first to put these issues in the context of the statutory framework, the relevant facts and the decisions leading to this appeal. I will then turn to the standard of judicial review and how it applies in this case.

III. The Statutory Framework

[10] Under s. 125 of the *Constitution Act, 1867*, the Federal Crown is exempt from provincial and municipal taxes. This constitutional exemption has the potential to cause unfair adverse effects to municipal revenue — unfairness that Parliament has attempted to mitigate with the Act. As stated in s. 2.1, the purpose of the Act “is to provide for the fair and equitable administration of payments in lieu of taxes”. Paragraph 3(1)(a) of the Act provides that the Minister “may” make payments “in lieu of a real property tax for a taxation year”. The amount of this payment shall not exceed the amount determined by multiplying the “property value” by the applicable “effective rate” of taxation: s. 4(1). Subsection 2(1) defines these two terms as follows:

2. (1) In this Act,

...

“effective rate” means the rate of real property tax or of frontage or area tax that, in the opinion of the Minister, would be applicable to any federal property if that property were taxable property;

...

“property value” means the value that, in the opinion of the Minister, would be attributable by an assessment authority to federal property, without regard to any mineral rights or any ornamental, decorative or non-functional features thereof, as the basis for computing the amount of any real property tax that would be applicable to that property if it were taxable property;

As noted, the applicable effective rate is not in dispute in this case. What is in dispute is the value that in the opinion of the Minister would be attributable by an assessment authority to the property if it were taxable.

[11] Improvements on federal land as well as federal land itself are subject to PILTs except where they are rendered ineligible by s. 2(3) and its associated schedule.

[12] In this case, the relevant “assessment authority” at the time was the Nova Scotia Director of Assessment, appointed under the *Assessment Act*, R.S.N.S. 1989, c. 23. The statute directs that property be valued according to market value:

42 (1) All property shall be assessed at its market value, such value being the amount which in the opinion of the assessor would be paid if it were sold on a date prescribed by the Director in the open market by a willing seller to a willing buyer, but in forming his opinion the assessor shall have regard to the assessment of other properties in the municipality so as to ensure that,

subject to Section 45A, taxation falls in a uniform manner upon all residential and resource property and in a uniform manner upon all commercial property in the municipality.

[13] In instances in which the Minister and the local taxing authority disagree on valuation, the Minister can refer the matter to an advisory panel, which will provide him or her with advice: s. 11.1 of the Act. As we shall see, that is what occurred here.

IV. Facts

[14] The Halifax Citadel, a federally owned property, is an approximately 48-acre site in the middle of downtown Halifax. The site served military purposes from the time of Halifax's foundation in 1749 until the end of the Second World War. Now it is zoned as a "Park and Institutional Zone" by Halifax and is also designated as a national historic site under *National Historic Sites of Canada Order*, C.R.C., c. 1112, Sch., s. 1, passed under the *Canada National Parks Act*, S.C. 2000, c. 32. The parties agree that its highest and best use is as a national historic site. Operating as such a site, the Citadel is subject to stringent use and development restrictions.

[15] Not everything on the site is eligible for PILTs and what is eligible has changed over time. It is necessary therefore to describe the site in terms of its various components. There are currently "eligible improvements" that qualify for PILTs; components that formerly were but are no longer "eligible improvements"; "ineligible improvements" that are excluded from the ambit of the Act; and the land under each of these components. The components on the site that are eligible — that is, the eligible improvements and all of the land — fall under the s. 2(1) definition of "federal property", which includes "real property and immovables owned by Her Majesty in right of Canada that are under the administration of a minister of the Crown". The improvements that are ineligible are listed in s. 4.1 of Sch. II of the Act and are thus excluded from the definition of "federal property" as per s. 2(3)(b) of the Act. The components of the site are as follows:

1. The eligible improvements: These include the kiosks, the buildings containing office space, some buildings containing storage space, a movie theatre and the town clock, which are themselves eligible for valuation for the purposes of PILTs. The parties have agreed to the value of these improvements at \$2,233,550 for the 2005 taxation year; this value has been adjusted for other taxation years. The valuation of the eligible improvements is not an issue before this Court.
2. The formerly eligible improvements referred to as the casemates and demi-casemates: These are structures built into the fortress ramparts which were used originally for storage. It is common ground that they were "eligible improvements" subject to valuation for the purposes of PILTs from 1997 to 2000, at which time they ceased being eligible improvements because of the addition (SOR/2001-494, s. 23) of s. 4.1 to Sch. II to the Act. The valuation of these structures, therefore, only has any effect on the PILTs for 1997 to 2000. Both the Federal Court and the Federal Court of Appeal concluded that the Minister's assessment of their value was unreasonable and that finding is not challenged in this Court.
3. The glacis: This is the land sloping down from the fortification. It served to expose enemy troops to fire as they approached the fortress, or at least would have done had the Citadel ever come under attack. The glacis itself, like most of the fortifications, is an ineligible improvement by virtue of its inclusion in s. 4.1 of Sch. II to the Act.

4. The land beneath the eligible improvements: This land takes up approximately 19,000 square feet.
5. The land beneath the formerly eligible improvements (the casemates and demi-casemates): This land takes up approximately 60,000 square feet.
6. The land beneath the glacis: This is, like the land beneath the eligible improvements and the land beneath the casemates and demi-casemates, subject to valuation for the purposes of PILTs. This land takes up approximately 42 acres. Although this appeal concerns the valuation of all the land on the site, it is the land under the glacis that is at the heart of the matter.

[16] The local assessment authority valued the entire site at between \$36,000,000 and \$40,280,100 between 1997 to 2007. The Minister made PILTs in respect of these years, however, on the basis of values ranging between \$5,250,000 and \$5,330,000. Halifax objected to this. Halifax and the Minister were able to agree on the value of the eligible improvements, but not on the value of the casemates, the demi-casemates or the land on the Citadel site. The Minister referred the matter to the Panel. The Panel was requested to value the casemates and demi-casemates for the purposes of the 1997 taxation year, and the land for the 2005 taxation year. If the Minister accepted the Panel's figures for these two years, he would use them to arrive at values for the other relevant years. The Panel heard witnesses and considered expert reports. The reports are in the record before this Court, but no transcript of the testimony at the hearing was made.

[17] It is common ground that the Panel's decision should be treated as the Minister's decision for the purposes of judicial review.

[18] The Panel had before it two very different approaches to valuation, one advanced by Halifax and the other by Canada. At the risk of over-generalization, the main difference between the approaches was this. Halifax used as the basis of its appraisal the market value of surrounding property with various adjustments, but gave little weight to the use restrictions inherent in the historic site designation. Canada, for its part, took as its starting point that the use restrictions rendered the property effectively valueless except to the extent that it could actually support commercial uses. It appears that the Panel basically adopted the latter view. However, because the reasons given by the Panel are quite unsatisfactory in important respects and, on the critical point, non-existent, it is necessary to give a summary of the two positions which were advanced before it.

[19] Halifax's principal expert witness was Kathy Barss, who worked with the Assessment Services Division of Service Nova Scotia and Municipal Relations, effectively the "assessment authority" in this case. She came to her valuation of the land on the basis of a direct comparison approach, by reference to the sale price of 22 Halifax sites which she considered comparable, that is, which were close to the Citadel site and were either vacant or intended to be developed. This approach accorded, in her opinion, with the requirements of s. 42(1) of the *Assessment Act*. She took the view that neither the site's municipal zoning nor its designation as a national historic site should have any effect on valuation. She examined various historic sites from across the country to see whether local assessment authorities had discounted their values to account for use restrictions arising from their status as historic sites. She concluded that this had happened only in New Brunswick. She also noted various sales in Nova Scotia of properties that were intended to be preserved for public purposes, but for which the sale price was comparable to other properties bought without such restricted uses in mind.

[20] In order to value the land she divided the site into two zones. She valued the first zone, 8.18

acres closest to the downtown business district of the city, at \$19.25 per square foot. She valued the second zone, the remaining 39.86 acres, at \$7.00 per square foot. Using these values she came to a total of \$19,000,000 for the entirety of the land on the site.

[21] A second witness testified on Halifax's behalf on the valuation of the casemates and demi-casemates. He took the view that they should be valued in accordance with their replacement value less depreciation, and that there should be no devaluation to account for functional obsolescence. Such devaluation would be inappropriate since the casemates and demi-casemates were serving the function of a living history museum. He came to a valuation of \$7,315,900.

[22] Canada's expert considered the Citadel site's highest and best use to be relevant to the site's valuation, and relied on a document he had written on the "Best Practices" for the valuation of historic sites. Both Halifax's principal expert and Halifax's Director of Legal Services and Risk Management testified that neither Halifax nor Nova Scotia accepted or used the approach embodied in this document. Canada's expert testified, though, that his appraisal was also consistent with more traditional methods of valuation, and he purported in his report to use a market comparison approach.

[23] His selection of appropriate comparator sales depended heavily on the Citadel site's use restrictions and development potential. The only land to which he attributed significant value was the approximately 19,000 square feet of land under the eligible improvements. He valued this land by comparison with other plots of land with similar uses, and came to a value of \$286,000. He valued the land under the ineligible improvements, including under the glacis and under the casemates and demi-casemates, at a nominal ten dollars to account for the severe restrictions on that land's use. In coming to this nominal value he relied in part on the comparator examples of four transfers of historic sites in Nova Scotia between the federal and provincial governments. He did not provide an estimate of the value of the casemates or demi-casemates.

[24] In its report the Panel rejected almost all of Halifax's expert's suggested comparator sales because she had not taken into account differing highest and best uses, differing permitted density of development or the use restrictions on the Citadel site. In essence, the Panel's view was that the use restrictions inherent in the historic site designation had to be taken into account in determining market value. Despite expressing some reservations about Canada's expert's reliance on his "Best Practices" document, which had not yet garnered approval in the assessment community, the Panel saw merit in his focus on development potential, since this has a strong effect on market value. However, the Panel rejected the comparator sales that he had selected for the land under the glacis.

[25] Proceeding on the basis that the restrictions imposed on the Citadel site were highly relevant to its valuation the Panel accepted only one of Halifax's expert's comparator sales, which related to similarly zoned land. The Panel used it to value the land under the casemates and demi-casemates at \$21.10 per square foot. To this the Panel added, with no explanation, \$4.56 per square foot in demolition costs, for a total land valuation of \$1,550,000.

[26] The Panel gave the casemates and demi-casemates a value of \$8,515,500 when new, and subtracted amounts for physical depreciation and functional obsolescence to account for their current underuse. This gave them a final value of \$2,556,200. As noted, the courts below have found the Panel's valuation of these structures to have been unreasonable, a finding not under appeal to this Court.

[27] The land, casemates and demi-casemates therefore came to a total value of \$4,106,200.

[28] In a supplementary report the Panel added ten dollars to its figure for the land, with no explanation. The parties agree that this added amount must have been intended to represent the value of the land under the glacia, as revealed by its accordance with the figure Canada's expert gave for it and by the Panel's failure to value it in its first report.

[29] On the basis of a four-page memorandum from the Deputy Minister, the Minister adopted the report's conclusions. To the Panel's final value the Minister added an amount to account for the value of the eligible improvements and the value of the 19,050 square feet of land under them. The latter value was calculated using the per-square-foot value the Panel had set for the land under the casemates and demi-casemates: July 29, 2008 letters from the Minister to the Mayor of Halifax and the Chief Administrative Officer of Halifax, A.R., vol. I, at pp. 22-23; Report to the Minister, A.R., vol. I, at p. 30. The Minister made additional PILTs for 1997 to 2007 on the basis of the newly accepted valuation of the site.

V. Judicial Review

A. *The Decision of the Federal Court, 2009 FC 670, 346 F.T.R. 264*

[30] Phelan J. heard Halifax's application to the Federal Court for judicial review of the Panel Report and of the Minister's adoption of it. He quashed the Minister's decision and remitted it to him for redetermination. The reviewing judge took the view that where an assessment authority has performed an assessment the Minister should deviate from it only where the assessment authority's conclusion is unreasonable or unsupportable: para. 46. In this case the Panel had erroneously performed its own valuation, rather than inquiring into the reasonableness of the assessment authority's: para. 50. Phelan J. also considered the Panel's valuation of the land and casemates and demi-casemates to be unreasonable. The valuation did not find adequate justification in the Panel's report and was inconsistent with the site's highest and best use as a national historic site: paras. 57-64.

B. *The Decision of the Federal Court of Appeal, 2010 FCA 196, 405 N.R. 133*

[31] The Minister appealed. In the Federal Court of Appeal, Evans J.A. (Blais C.J. concurring) found that the Minister's decision with regard to the value of the land was reasonable, but upheld Phelan J.'s conclusion that the decision regarding the casemates and demi-casemates was not. Sharlow J.A. dissented in part and would have upheld Phelan J.'s conclusion entirely.

[32] Evans J.A. rejected the submission that the Minister must accept an assessment authority's appraisal unless that appraisal is unreasonable. Rather, the Minister is entitled to make his own independent determination of value: para. 48. This notwithstanding, the Minister's determination must represent his opinion on the value that the relevant authority would attribute to the property in question. In this instance the Panel had correctly understood its mandate: paras. 58-59.

[33] Evans J.A. considered the Panel's reasons, read in conjunction with Canada's expert report, to have adequately explained the attribution of a higher value to the land under the casemates and demi-casemates and the attribution of nominal value to the land under the glacia: paras. 65-73. Canada's expert had reasoned that the land under the casemates and demi-casemates had value because of the commercially valuable uses to which it could be put for office and storage space. However, as the glacia could not be altered and therefore had no development value, the land under it had no value either: paras. 66-68.

[34] Evans J.A. saw no adequate basis in the Panel's reasons for reducing the casemates' and

demi-casemates' value to account for disuse. He noted that the Panel's reasons were silent about why it rejected Halifax's evidence that underuse was irrelevant in view of the casemates' representational function in the Citadel and further that Canada's expert appeared not to explain why he disagreed with that approach, if he in fact did: para. 75. Evans J.A. therefore remitted the valuation of the casemates and demi-casemates to the Minister: paras. 74-77. As noted, the finding that this aspect of the Panel's decision was unreasonable is not challenged in this Court.

[35] Sharlow J.A. agreed with Evans J.A. on the applicable standard of review and on the unreasonableness of the Panel's valuation of the casemates and demi-casemates. However, she dissented with regard to the valuation of the land, largely for the reasons of Phelan J.: paras. 79-81.

[36] Halifax now appeals on the issue of the valuation of the land on the Citadel site.

VI. Analysis

A. *Standard of Review of the Minister's Decision*

[37] In this instance the Minister has exercised his discretion to make PILTs to Halifax, and to base these PILTs on the full property value of those components of the site that are subject to the Act. It follows that at issue in this appeal are the scope of the Minister's discretion to determine that value, the standard of review applicable to the exercise of this discretion, and the ultimate merits of the Minister's valuation of the land in this case.

(1) The Nature of the Minister's Discretion Under the Act

[38] The reference point for the exercise of the Minister's discretion in making a PILT is the local system of property taxation that would apply to the property if it were taxable. This is evident from the definitions of "effective rate" and "property value" in s. 2(1) of the Act. The maximum allowable PILT is calculated by multiplying the "effective rate" of tax by the "property value": s. 4(1). The "effective rate" is the rate of real property tax that in the opinion of the Minister *would be applicable* if the federal property were taxable property: s. 2(1), "effective rate". The rate that would be applicable refers to the applicable provincial or municipal rate: *Montréal (City) v. Montreal Port Authority*, 2010 SCC 14, [2010] 1 S.C.R. 427, at para. 40. The "property value" is the value that in the opinion of the Minister "would be attributable by an assessment authority to federal property . . . as the basis for computing the amount of any real property tax that would be applicable to that property if it were taxable property": s. 2(1). Again, the value that would be applicable is that which would, in the Minister's opinion, be applied by the local assessment authority.

[39] Halifax submits that where the assessment authority has determined the value of the property the Minister is bound by that value unless he or she concludes that the authority's assessment is unreasonable. This, Halifax says, flows from the definition of "property value" which, as noted, refers to the value that would be attributed to the property by the assessment authority. Phelan J. adopted this position (see FC reasons, at para. 46), while the Federal Court of Appeal rejected it (see FCA reasons, at paras. 48 and 79). I respectfully agree with the Federal Court of Appeal on this point.

[40] The Minister's role under the Act is not to review the assessment authority's assessment; the Minister's function with respect to the value of the property is to reach an *opinion* about the value that *would be* attributed by an assessment authority. This is done in the context of exercising the discretion to make a PILT that must not exceed the product of the effective rate and the property value. While the view of an assessment authority is an important reference point for the Minister, I nonetheless agree with Evans J.A. that

in reaching his or her opinion, the Minister is entitled to make an independent determination of the value that would be attributed to the federal property by an assessment authority.

[41] This conclusion finds support in the functional and practical considerations which LeBel J. identified in *Montreal Port Authority*, at paras. 34-35. The calculation of PILTs is not limited to a mechanical application of municipal assessments and tax rates. It must be adaptable to the various locations in which federal properties are situated, and to those properties' circumstances. This is especially so in view of the diverse and sometimes unique nature of federal properties. We need look no further than the Citadel site, 48 acres of 19th-century fortification sitting in the middle of a modern city, for an obvious example. Assessment principles are not self-applying. Legitimate disagreements about how they apply in a particular case are to be expected. There will often be no one, "right" answer. Moreover, the Minister is not in the same situation as an ordinary taxpayer. Where disagreements about an assessment of federal property arise, the Minister cannot take advantage of the assessment appeals processes that would be available to taxpayers subject to particular municipal or provincial regimes. Finally, it makes sense that within this highly discretionary regime of PILTs — a regime that explicitly preserves the Federal Crown's constitutional immunity from provincial and municipal taxation (s. 15) — the Minister would be armed with ways to protect federal interests against over-zealous assessment authorities should the need arise.

[42] This is not to say that the Minister's discretion in valuing federal property is unfettered. In exercising his discretion the Minister must comply with the requirements of the Act: *Montreal Port Authority*, at para. 33. As the s. 2(1) definition of "property value" makes clear, the reference point of the Minister's opinion on valuation is the value that "would be attributable by an assessment authority to federal property". Just as fairness to the Federal Crown demands that the Minister retain the discretion to come to his own opinion on property value, fairness to municipalities demands that the Minister's opinion be informed by the tax system that would apply to the federal property in issue if it were taxable.

(2) The Applicable Standard of Review

[43] The Minister's decision under the Act is discretionary within the legal framework provided by the legislation, as explained in *Montreal Port Authority*: see paras. 32-38. Provided that the Minister applies the correct legal test, his or her exercise of discretion is judicially reviewed for reasonableness: see *Montreal Port Authority*, at paras. 33-36; and *Lake v. Canada (Minister of Justice)*, 2008 SCC 23, [2008] 1 S.C.R. 761, at para. 41. The exercise of discretion must be consistent with the principles governing the application of the Act and with the Act's purposes: *Montreal Port Authority*, at para. 47. As LeBel J. said in *Lake* in the context of ministerial discretion in relation to extradition, "The Minister's conclusion will not be rational or defensible if he has failed to carry out the proper analysis. If, however, the Minister has identified the proper test, the conclusion he has reached in applying that test should be upheld by a reviewing court unless it is unreasonable": para. 41.

[44] Reasonableness review is concerned both with the transparency and intelligibility of the reasons given for a decision and with the outcome of the decision-making process: *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190, at para. 47; *Montreal Port Authority*, at para. 38. As Abella J. has recently explained in *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708, "the reasons must be read together with the outcome and serve the purpose of showing whether the result falls within a range of possible outcomes": para. 14.

B. *Was the Minister's Decision Reasonable?*

[45] Although this appeal concerns the valuation of all the land on the Citadel site, the focus here is

the Minister's opinion that an assessment authority would attribute a value of ten dollars to the land under the glacis. The question is whether that opinion is reasonable. The panel gave no reasons justifying its valuation of the land under the glacis. In fact, it did not assign it a value in its initial report. It was only in its amended report that the Panel, without explanation, inserted the nominal amount of ten dollars. However, Evans J.A. inferred that the Panel accepted Canada's expert's reasons for assigning the land under the glacis this value. Canada's expert wrote in his report that because of the applicable use and development restrictions this land has no economic value to the owner, and so "no value in exchange": A.R., vol. II, at p. 113. He considered the land to be comparable to four pieces of parkland that had been the subject of transfers at nominal value between Canada and Nova Scotia.

[46] Whether the Panel did or did not accept Canada's expert's reasoning is unclear. It is of course to be regretted that such an important point should be ignored in the Panel's report. However, even accepting the view that the Panel should be taken as having adopted the approach of Canada's appraiser, my view is that the decision is unreasonable.

[47] It is unreasonable, first, because the manner in which the Minister formulated his opinion was inconsistent with his obligation to form an opinion about the value that would be established by an assessment authority. Not only did the Minister not adopt the approach which the relevant assessment authority actually *would* apply to value the property, but he also had evidence before him, apparently not contradicted, that *other Canadian assessment authorities would not value the property* in the way he did. And there was *no evidence that any assessment authority would do so*. On that record, the Minister's opinion is in my view unreasonable. The Minister's opinion is also unreasonable on a second ground: by adopting the view that a national historic site is valueless because it cannot be used for commercial activities, the Minister defeated Parliament's purpose in including national historic sites within the PILT scheme. I will address these two points in turn.

(1) Opinion as to How an Assessment Authority Would Value the Property

[48] The Minister's task with respect to the valuation of property is to form an opinion on the value that "would be attributable by an assessment authority" to the property in question. While, as discussed earlier, the Minister is not bound by the valuation arrived at by the relevant assessment authority, it must nonetheless be a reference point. The difficulty here is that by applying the approach proposed by Canada's appraiser, the Minister attributed nominal value to the land under the glacis solely on the basis of the impossibility of developing it. It is clear, however, that the relevant assessment authority did not take that approach when coming to its view on the market value to which s. 42(1) of the *Assessment Act* refers. Indeed, there was no evidence before the Minister to which we have been referred that *any* assessment authority in Canada uses this approach when valuing sites of this nature. The evidence before the Minister to which we have been referred was in fact to the opposite effect. Halifax's appraiser studied the assessed value of 24 historic sites in eight provinces. She concluded that only in one province was there any reduction in the land value to account for restrictions on use as a result of designation as a national historic site: A.R., vol. II, at p. 43. Moreover, in the case of the one province where such reduction was observed, the reduction rates were between 20% and 50% of the market value of surrounding lands. There is little detail in the record as to why these assessment approaches were adopted or why the Minister decided to exercise his discretion as he had in these particular cases and I am not suggesting that the Minister was bound by these examples. The important point is that in no case referred to in the evidence, including in the report of Canada's expert, did an assessment authority attribute nominal value to the land on the basis of use restrictions resulting from the national historic site designation. The most before the Panel that pointed in the other direction was Canada's expert's statement that his appraisal had been carried out in conformity with the requirements of the Canadian

Uniform Standards of Professional Appraisal Practice. However, this does nothing to suggest with any specificity that his approach of assigning nominal value to historic sites that do not support economic uses has gained approval in the assessment community. In short, there is no evidence before this Court, just as there was none so far as we can tell before the Panel and the Minister, to suggest that, with regard to sites of this nature, *any* assessment authority anywhere in Canada applies the approach to valuation used by Canada's appraiser and relied on by the Minister.

[49] *Montreal Port Authority* (at para. 40) made clear that the Minister cannot base his valuation on a "fictitious tax system" that he himself has created, but that is exactly what happened in this case. In light of the state of the record, the approach advocated by Canada's appraiser cannot be viewed as a reasonable basis on which the Minister could perform his duty to form an opinion about the value that "would be attributable by an assessment authority". Adopting this approach was unreasonable.

(2) Statutory Purpose

[50] The Minister's approach to valuation was inconsistent with Parliament's inclusion of historic sites within the ambit of the Act, and with the purpose behind the existence of the PILT scheme.

[51] As discussed in more detail earlier, the stated purpose of the Act is "to provide for the fair and equitable administration of payments in lieu of taxes": s. 2.1. This is accomplished by reconciling the objective of tax fairness for municipalities with the preservation of constitutional immunity from taxation: *Montreal Port Authority*, at para. 20. The Act requires that property value and tax rates be calculated as if the federal property were taxable property belonging to a private owner: *Montreal Port Authority*, at para. 40. Moreover, the Act and its schedules contain detailed lists of various types of property that are included in or excluded from this scheme. The Citadel falls within the definition of "federal property" in s. 2(1) and, as a national historic site of Canada, it is specifically removed from the exclusions relating to parks in urban areas under s. 2(3)(c).

[52] The Minister's conclusion is fundamentally at odds with this scheme. At the core of his reasoning, it may be inferred, is the proposition that land which, by virtue of its historic site designation, has no development value has only nominal value for PILT purposes. Although the parties agreed that the highest and best use of the property is as a national historic site, the Minister's determination in effect is that its actual use for that purpose has no value. Canada's appraiser, who according to the majority of the Federal Court of Appeal supplies the unstated rationale for the Minister's opinion, put it this way in his report:

As a National Historic site together with the restrictions imposed by the Municipal Zoning Bylaws and the Municipal Development Plan economically beneficial uses of the land have largely been eliminated, thus rendering the land to be economically idle, effectively economically valueless. [Emphasis added; A.R., vol. II, at p. 131.]

[53] This reasoning, in my respectful view, is inconsistent with the Act's inclusion of national historic sites within the types of federal property eligible for PILTs under the Act, and with the overall purpose of the Act to deal equitably and fairly with Canadian municipalities in relation to payments in lieu of property taxation.

[54] Turning to the first point, Parliament intended that the land on national historic sites of Canada be included in the PILT scheme. That being the case, it is inconsistent with this inclusion to reason in a categorical way, as the Minister did here, that such sites, *by virtue of that status*, have no value for assessment purposes and are therefore ineligible for PILTs under the scheme. I do not suggest that property subject to the

Act can never be given nominal value. It is possible, for example, that in some instances an assessment authority would attribute nominal value to the property if it were under its jurisdiction: see, for example, *Notre-Dame-de-L'Île-Perrot (Paroisse de) v. Société générale des industries culturelles*, [2000] R.J.Q. 345 (C.A.); *Québec (Communauté urbaine) v. Fondation Bagatelle Inc.*, 2001 CanLII 15060 (Que. C.A.), leave to appeal to SCC refused [2002] 3 S.C.R. xii; *Gander International Airport Authority Inc. v. Gander (Town)*, 2011 NLCA 65, 313 Nfld. & P.E.I.R. 125. But implicit in the Minister's decision in this case is that any land on a national historic site which, for that reason, cannot be developed or support economically productive use has no value. A categorical position such as this fundamentally contradicts Parliament's purpose in making national historic sites subject to the Act.

[55] Discretion conferred by statute must be exercised consistently with the purposes and policies underlying its grant: *Ontario (Public Safety and Security) v. Criminal Lawyers' Association*, 2010 SCC 23, [2010] 1 S.C.R. 815, at para. 46; see also *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, at para. 65; *Oakwood Development Ltd. v. Rural Municipality of St. François Xavier*, [1985] 2 S.C.R. 164, at p. 174; *Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, 2001 SCC 37, [2001] 2 S.C.R. 132, at paras. 39-45.

[56] In my respectful view, the Minister's exercise of discretion was contrary to both the purposes and the policy of the Act. Parliament's purpose in including national historic sites within the ambit of the Act was to allow the Minister to make PILTs in respect of such sites, which should be valued under an approach that is conducive to this purpose. It cannot accord with the statutory purpose to accept that the Minister can undercut this inclusion by adopting a method of valuation that renders it meaningless. The Minister's approach "had the effect of frustrating the very legislative scheme under which the power is conferred": *C.U.P.E v. Ontario (Minister of Labour)*, 2003 SCC 29, [2003] 1 S.C.R. 539, at para. 174 (internal quotation marks omitted). It was therefore unreasonable.

[57] The Minister's position is also, in my view, at odds with the broader policy of the Act, which is to treat municipalities fairly. It can hardly be thought either fair or equitable to conclude that 42 acres in the middle of a major metropolitan centre has no value for assessment purposes. While admittedly applying market value assessment principles to an historic site is a challenging enterprise, the conclusion that an historic site has no value because it cannot be developed or used in an economically productive way is "out of sync" with the equitable purpose of the PILT scheme. Of course, the presence of an historic site doubtless has spin-off benefits for the community in which it is located. But the Act is directed to fair and equitable PILTs with reference to what taxes would be payable if the site were taxable. The Minister's approach in my view unreasonably departs from that purpose.

[58] It is a challenging task to determine the market value for appraisal purposes of a property whose highest and best use is as a national historic site. While I have concluded that the Minister's approach to this task was unreasonable on the record before him, nothing that I have said in my reasons is intended to approve or adopt any particular approach to this appraisal conundrum or to suggest that the Minister, in order to act reasonably in this case, was obliged to adopt the appraisal method put forward on behalf of the municipality or was required to ignore the use restrictions inherent in the property's highest and best use as a national historic site. What will constitute a reasonable approach on the part of the Minister depends on the evidence placed before him in the particular case, viewed through the lens of his statutory duties under the Act and in light of the reasons which he gives for the particular exercise of his statutory discretion.

VII. Disposition

[59] I would allow the appeal and remit this matter to the Minister for redetermination. Should the

Minister refer this matter to a Panel, it must be differently constituted. Costs are awarded to the appellant throughout.

Appeal allowed with costs.

Solicitors for the appellant: Cox & Palmer, Halifax.

Solicitor for the respondent: Attorney General of Canada, Ottawa.

Solicitor for the intervener the City of Toronto: City of Toronto, Toronto.

Solicitors for the intervener the Federation of Canadian Municipalities: McMillan, Ottawa.

Solicitors for the intervener the Association of Canadian Port Authorities: Owen Bird Law Corporation, Vancouver.

Solicitors for the intervener the City of Québec: Giasson et associés, Québec.