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Land swap hearing was a ‘sham’: objectors 8

Condo tower deal already negotiated, court told

Mayor Gregor Robertson and his Vision Vancouver majority on council engaged in a “sham” public hearing to approve a massive tower on city- owned land, a lawyer for a New Yaletown community association told a B. C. Supreme Court judge Monday.

Not only had the city already negotiated a land swap deal with Brenhill Developments to permit a 36- storey condo tower on city- owned land at 508 Helmcken in return for building social housing on company land at 1099 Richards, it also failed to disclose those documents at a public hearing where the majority of attendees were opposed to the condo tower, said lawyer Nathalie Baker.

Council and staff clearly had their minds made up by the time the city held the public hearing on July 16, 2013, Baker told B. C. Supreme Court Justice Mark McEwan. The city was so bound by the terms of its contract with Brenhill that council had no room to make changes even if persuaded by public submissions, she said.

“The evidence is that members of the public had no idea that there was already a contract,” she said.

“So your position is that council had its mind made up before the public hearing?” McEwan asked.

“In effect that is what I am saying ... It shows a bias that they have already decided that this is a good deal,” Baker said. “The whole thing is orchestrated. The public hearing was kind of a sham, a rubber stamp on a decision that is the culmination of a year and a half of negotiations.”

Baker is representing members of the Community Association of New Yaletown. They went to court after the Vision Vancouver majority on council disregarded its own Downtown Official Development Plan and approved Brenhill’s proposal to build a massive tower that would be more than five times the density and four times higher than the maximum allowed under the plan. All three opposition members of council voted against the proposal, saying it was out of context to what the neighbourhood wanted.

This case is one of a number in which the city is being sued by community groups or associations alleging it has overstepped its authority. On Wednesday, a judge will hear Concord Pacific’s application to be admitted as a party in which the False Creek Residents Association is suing the city over a delayed promise to build a park near Science World.

Baker said Brenhill approached the city several years ago to see if it could swap its smaller Richards Street property across the street from the city’s “larger and nicer” Helmcken parcel, which backs on to the new Emery Barnes park. Without opening the property to tender from other developers the city agreed to the swap if Brenhill would first build a 172- unit social housing complex on the Richards property. That project would replace the 84- unit Jubilee House social housing building that occupies the Helmcken address, as well as add more social housing units to the neighbourhood.

The city’s land was valued at \$ 15 million and Brenhill’s at \$ 8.4 million. Brenhill would also give the city \$ 25 million in “community amenity contributions.” Ultimately, the city agreed to a deal in which the \$ 6.6 million difference in the land values and the \$ 25 million in CACs would be used by Brenhill to build the social housing building. But by the time the deal was finally concluded, the size of the project had been scaled back to 152 units.

Baker said even then, there are questions about whether any of the apartments over the original 84 social housing units will be designated as “social housing,” noting that the city is now considering them to be “low cost” rental housing with average monthly rates of \$ 1,150.

In return, the city rezoned its own property to allow a floor space ratio of 17.9, far in excess of any other building in the neighbourhood. The building also would significantly overshadow Emery Barnes Park, Baker said.

The city and Brenhill have not yet presented their arguments. Brenhill owner Brent Kerr and his son Max were present for the opening day. The case is expected to be heard over four days this week.

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