



B. Jackson #2  
Sworn January 15, 2015

NO. S143862  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

**F.C.R.A. FALSE CREEK RESIDENTS ASSOCIATION**

**PETITIONER**

**AND:**

**THE CITY OF VANCOUVER  
and ONE WEST HOLDINGS LTD.**

**RESPONDENTS**

**AFFIDAVIT #2**


I, Brian Jackson, of 453 West 12th Avenue, Vancouver, British Columbia, MAKE OATH  
AND SAY AS FOLLOWS:

1. I am the General Manager of Planning and Development with the City of Vancouver ("the City"), and as such I have personal knowledge of the matters and facts hereinafter deposed to.
2. In May 2014 I received a letter from Fern Jeffries the Co-Chair of the False Creek Residents Association ("FCRA"). Attached as Exhibit "A" to this Affidavit is a true copy of that letter.
3. By May 2014 I was aware that the FCRA was opposed to an extension of the Development Permit that is the subject of this Petition.





**FALSE CREEK**  
RESIDENTS ASSOCIATION

This is Exhibit "A" referred to in the affidavit  
of Brian Jackson  
made before me on 15<sup>th</sup> day of July  
A. D. 2015  
  
A Commissioner for taking affidavits for  
the Province of British Columbia

May 8, 2014 via email  
hard copy to follow

Brian Jackson, General Manager Planning and Development  
City of Vancouver

Dear Mr. Jackson,

Re: Development Permit # DE 409317 As Amended

We are writing to provide input into your decision with respect to the renewal of the above-noted Development Permit. We object to the renewal of this permit for the following reasons:

**1. Back-to-back renewal of temporary permits**

The temporary relaxation of current zoning (Bylaw 5744) first came before the Development Permit Board on July 18, 2005 and was approved subject to conditions. These conditions were laid out in a letter from the City of Vancouver dated July 27, 2005 (attached as Appendix 1). Subsequently, the development permit dated May 30, 2006 was granted. This "temporary" permit was extended by the Development Permit Board at its meeting of April 4, 2011 as noted on the Change Notice to #DE409317, and is attached as Appendix 2. As noted in this document, the current "temporary" permit will expire May 16, 2014.

The comments in the e-mail from Vicki Potter to Patsy McMillan (attached as appendix 3) suggest that the intent of the original temporary permit was to be "temporary".

The additional 3 year extension now sought by Concord Pacific means that this property, zoned exclusively for park and recreational use, will be used for commercial purposes for at least 12 years by the time the proposed extension expires in 2017.

Further, we now understand from the discussion at the May 1, 2014 meeting of the Joint Working Group, attended by yourself and senior executives from Concord Pacific, that at least two processes will now be required prior to park delivery: first, the completion of the various feasibility and planning studies related to the removal of the Georgia and Dunsmuir viaducts; and second, the completion of a new Master Plan (i.e. ODP) for NE False Creek. We understand that the timeframe for the completion of this work is not known, and cannot reasonably be estimated by you to be under a decade or two.

Given the unwillingness of parties to commit to a specific time frame, it appears that the City is prepared to define “temporary” to include a period of over 20 years, from 2005 to 2024 and beyond. This is not temporary. The repeated renewal of this “temporary” permit can be reasonably interpreted as a strategy to avoid an actual rezoning, and the public scrutiny that would result from that process.

Additionally, I am sure you are aware of the condition of the “temporary” sales and marketing centre. It is, in all respects very permanent looking with its glass, tile and high end finishings. I attach a few photographs for your easy recollection (Appendix 4). I also note that in a recent viewing of the model at the presentation centre, the park was truncated in size and mock foundations for future buildings were displayed in parts of lot 9. This is evident in the photo in Appendix 4. Added to Appendix 4 in this amended letter is a photo showing the developer’s advertisement at the Vancouver Airport showing towers these additional towers.

## **2. Lack of Community Consultation**

On June 14, 2011, John Greer wrote to Walter Franci, the Architect sponsoring Concord Pacific’s development application for their “temporary” sales centre, noting the following requirement in granting a second “temporary” permit:

- 1.2 provision of a Site Management Plan to the satisfaction of the Director of Planning: Note to Applicant: This plan shall reflect the current state of operations of the site, as well as any revisions anticipated as a result of required site enhancements. The plan shall include at minimum the following topics: site security, hours of operations, community contact, and specific descriptions of all current and anticipated uses in the Presentation Centre buildings (including daily functions and special events)...

(emphasis added)

The False Creek Residents Association represents the residents in the neighbourhood. There has been no community contact with us beyond attendance at the Joint Working Group at which our issues and concerns remain totally unaddressed by the property owner.

If you are in receipt of a “Site Management Plan” that does include details of “community contact”, we would certainly appreciate being provided with a copy of this plan so that we can compare it with our experience.

Otherwise, given this lack of “community contact”, we consider Concord Pacific to be in violation of its current permit and therefore the permit should not be renewed without an appropriate public process.

## **3. Inappropriate Use of the Sales and Marketing Centre**

The sales and marketing centre continues to feature and market properties and developments outside of the City of Vancouver. We understood that it was originally

positioned on the lot 9 park land in order to market neighbouring properties, specifically to market the developments on lots 6a and 6c. Instead, the centre is marketing properties in Burnaby, in the past has featured properties in the Okanagan Valley, and beyond. See photo in Appendix 4 showing Met 2 in Burnaby.

Developers usually create commercial centres to market their properties. However normally these centres are in close proximity to the property in question. This is not the case with these operations. The projects being marketed are not even in the same municipality.

**4. Lack of Public Benefit**

In a decision by the Property Assessment Appeal Board, (uncontested by the City of Vancouver), the Board judged that Concord Pacific would otherwise be paying approximately \$336,914 per annum in 2009 dollars to rent space equivalent to their current sales centre at the park site. By the time lot 9 is delivered as a park as intended by the 1989 CAC agreement, the intended value of the contribution will be dwarfed by the cost savings to the property owner. The public benefit negotiated is, for all intents and purposes, abandoned if the permit is continuously renewed.

**5. Inappropriate Relaxation of the Zoning Bylaw**

The current situation fails to meet the test for temporary relaxation of the zoning bylaw. The Vancouver Charter, Section 565A (e), outlines situations appropriate for the relaxation of a zoning by-law.

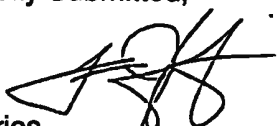
The only relevant authority for relaxation of the zoning by-law in these circumstances would be under (v), which permits relaxation for special events “designated by Council by by-law or resolution). However, there is no special event and, in our ability to determine, no by-law or resolution designating one.

**6. Unauthorized Relaxation of Zoning Bylaw**

Equally as significant, although section 565A (e) of the Charter gives Council authority to allow for relaxation of provisions of a zoning by-law, this authority implies the relaxation of use within the existing zoning, not a change of the use to one outside of its zoning envelope. According to By-law 5744, the zoning in subarea 9 “will be limited to park and recreational uses and customarily ancillary uses”. The temporary permit is not a relaxation of zoning, but a change of zoning.

For the above reasons, the FCRA respectfully submits that there be no further extension of the “temporary” development permit.

Respectfully Submitted,



Fern Jeffries  
Co-Chair