

March 15, 2017

Distributed via email

Dear CCA Presidents and Directors,

Re: CCA JOA Legal Consideration - Terms of Reference

As per the [motion approved at the March 6, 2017 Park Board meeting](#), which directed staff to review and consider any outstanding legal issues in the proposed Joint Operating Agreement (JOA), I am writing to provide you with an overview of the process and timeline developed to achieve this direction. As you are aware, Park Board staff will be reporting back to the Commissioners on April 10, and accordingly, we have a tight timeline. The process described below is in response to this timeline and some feedback we have heard from CCAs. Alternate processes were received, but unfortunately did not meet the clear Board direction for an expedited review and consideration process.

Summary

The [Park Board's March 6, 2017 decision](#) directed Park Board staff and City of Vancouver legal counsel to meet with CCAs and their legal counsel (if any) to review and consider any outstanding legal issues in the development of the JOA.

To this end, we will be holding two sessions, one on Saturday, March 25 and the second on Saturday, April 1, the purpose of which are described below. To facilitate meaningful review in this compressed timeframe, please send a written summary of all legal issues and concerns of your CCA to my office on or before March 22. Our staff will review all written submissions from CCAs or their legal counsel and will prepare a consolidated agenda for the March 25 meeting.

Scope of Review

The scope of the review will be to discuss and consider outstanding *legal issues* only.

Legal issues are questions of what can or cannot be done under law, compliance with law, or issues which have legal implications. For example, does a particular clause in the JOA cause a CCA to be in breach of a law or make it impossible for the CCA to comply with its other legal obligations? Does a requirement under the JOA place unreasonable risk on an individual or an association or is it outside an association's powers in a way that is not resolvable? This may include any items related to the *Societies Act* or *Income Tax Acts*.

The scope of this review does not include business issues. Business issues include any other term in a contract which defines the parameters of an arrangement or define the outcome goals of either party. For example, financial arrangements, maintenance obligations,

requirements of disclosure, length of the term. Except to the extent that these issues have legal implications they are considered business issues only.

Terms of Reference

1. Only legal issues will be considered.
2. Staff and legal counsel for the Park Board will review and consider the feedback provided by the CCAs. Park Board legal counsel will conduct independent review of the issues and provide advice to the Board.
3. Feedback from all 20 CCAs will be reviewed and considered on an equal basis.
4. CCAs may engage legal counsel for all or any part of their process. CCAs that are not able to retain legal counsel may provide feedback on a self-represented basis.
5. A list of legal issues and concerns must be provided in writing on or before March 22 so that a summary of all issues can be reviewed at the March 25 meeting.
6. We are not seeking agreement or consensus on legal language or positions as an outcome of this process.

Stages of Process

Written Submissions - Written submissions detailing all legal concerns or issues the CCAs have with the JOA will be provided to the Park Board by March 22. If your CCA has legal counsel, please ask your lawyer to provide a written memo outlining their legal concerns with the JOA. These summaries should be as detailed as possible; Park Board legal counsel will review and consider the information in these summaries when considering what amendments could be made to the JOA. The CCAs are welcome to propose additional language in these written summaries if they wish.

The Park Board requires feedback to be provided in advance and in written format because:

- a) This will enable staff to set a consolidated agenda for the meeting and to facilitate meaningful discussion of these issues in the timeframe we have; and
- b) Some CCAs have advised us that they will not be able to have legal counsel attend in-person sessions for cost reasons; this enables all CCAs to use their legal resources prudently while ensuring their concerns are heard with equal weight.

All issues must be disclosed in writing to the Park Board to be included in the March 25 meeting. Please provide written submissions of legal issues by March 22.

Submissions should be provided to:

- 1) Malcolm Bromley (malcolm.bromley@vancouver.ca); and
- 2) Karin Grubb (karin.grubb@vancouver.ca)

Exploratory Session - The purpose of the March 25 Exploratory Session is to understand the CCAs legal positions/issues and gather information and more detailed feedback from the CCAs

on the legal issues and concerns raised in the written submissions. Park Board staff will prepare the agenda for this meeting based on the written submissions received from the CCAs and their legal counsel. Park Board staff and legal counsel will use this session to ensure they fully and clearly understand the CCAs' legal concerns.

CCAs may have their legal counsel attend this meeting; however, Park Board understands that some CCAs may not have legal counsel in attendance. Please note that the space will be held until 3 pm if you wish to use it.

Following the March 25 Exploratory session, Park Board staff will review and consider the information provided by the CCAs and seek any additional legal advice it requires to consider the legal concerns of the CCAs. After reviewing and considering the feedback from all CCAs, Park Board staff will prepare a list of any proposed changes to the JOA.

Review Session - The April 1 Review Session will be used to review any changes proposed for the JOA to address legal issues, share the outcome of any further legal review, and to ensure that CCAs understand why the proposed changes will be suggested. CCAs may have their legal counsel attend this meeting. Park Board staff will endeavour to provide the proposed changes to the CCAs in advance of this meeting. The goal of the Park Board is not necessarily to seek agreement or consensus on language in the JOA, but to ensure that all legal concerns are identified and considered to ensure the JOA does not create any legal barriers.

Board Report - Park Board staff will include a list of all feedback raised by the CCAs in the Board Report for April 10, including how that feedback has informed further changes to the proposed JOA and what areas of disagreement are outstanding, if any. The CCAs may provide the Park Board with any additional feedback it has after the April 1 session. Any additional feedback submitted prior to end of day April 3 will be included in the Board Report.

Timeline

Following is a summary of the timeline that supports the March 6, 2017 Board decision:

- **March 22** - Deadline for CCA's (and/or their legal counsel) to submit written summaries of legal issues to the Park Board.
- **March 25** - *Exploratory Session* to be held at the Hastings Room at the PNE from 9am - noon.
- **April 1** - *Review Session* to be held at the Hastings Room at the PNE from 9am - noon.
- **April 5** - Updated JOA and companion Report posted online and distributed to all CCAs and Commissioners.
- **April 10** - Park Board staff to present final document to the Park Board Commissioners for decision.

Summary Report

The results of this process will be presented in the form of a Board Report and staff presentation at the April 10, 2017 Regular Board meeting. As it is a Board meeting, no speakers will be heard.



We have collectively done a lot of hard work and are very close to concluding the new Joint Operating Agreement development process. I wish to thank all CCA Board Members for your passionate advocacy on behalf of your neighbourhoods and all residents of the City of Vancouver.

If you have any questions or concerns, please do not hesitate to contact me.

Regards,

A handwritten signature in black ink that reads "Malcolm Bromley".

Malcolm Bromley
General Manager - Vancouver Board of Parks and Recreation
604-257-8448

/kg/clc

Copy to: PB Commissioners
PB Senior Management Team
Karin Grubb - CoV Lawyer
Raymond Penner - Facilitator