

File No. 04-1000-20-2015-023

May 4, 2015

s.22(1)

Dear s.22(1) :

Re: Request for Access to Records under the Freedom of Information and Protection of Privacy Act (the "Act")

I am responding to your request of February 6, 2015 for:

The following records related to the sale and transfer of the Stanley/New Fountain property from the City of Vancouver to 23 Cordova Property Inc., from January 1 to May 15, 2013:

Emails and correspondence between City officials and staff: Michael Flanigan, Brenda Proskan, Penny Ballem, Sadhu Johnston, Mike Magee, Gregor Robertson, Geoff Meggs, and correspondence with these individuals from or to developer Ian Gillespie, former Portland Housing Society executive-director Mark Townsend, and Portland Housing Society employees Dan Small and Liz Evans.

All responsive records are enclosed. Some information in the records has been severed, (blacked out), under s. 13(1); s.14 and s.17(1) of the Act. You can read or download those sections here:

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96165_00

Under section 52 of the Act you may ask the Information & Privacy Commissioner to review any matter related to the City's response to your request. The Act allows you 30 business days from the date you receive this notice to request a review by writing to:

Office of the Information & Privacy Commissioner,
P.O. Box 9038, Stn. Prov. Govt.
Victoria, B.C. V8W 9A4
Tel. 250-387-5629; Fax 250-387-1696

If you request a review, please provide the Commissioner's office with:

- 1) the request number assigned to your request (#04-1000-20-2015-023);
- 2) a copy of this letter;

- 3) a copy of your original request for information sent to the City of Vancouver; and
- 4) detailed reasons or grounds on which you are seeking the review.

Please do not hesitate to contact me if you have any questions.

Yours truly,



Barbara J. Van Fraassen, BA
Director, Access to Information
City Clerk's Department, City of Vancouver

Encl.

:bvf

From: ["Flanigan, Michael" <michael.flanigan@vancouver.ca>](mailto:michael.flanigan@vancouver.ca)

To: ["Giuricich, Kim" <kim.giuricich@vancouver.ca>](mailto:kim.giuricich@vancouver.ca)

Date: 4/24/2013 10:39:54 AM

Subject: RE: ACTION REQ'D: 0966268 B.C. Ltd. -- Exercise of Option to Purchase of Lots 11 to 14, Plan 168 -- 36 Blood Alley Square -- Stanley New Fountain Hotel

Yes – thanks for checking.

From: Giuricich, Kim

Sent: Wednesday, April 24, 2013 11:39 AM

To: Flanigan, Michael

Cc: Billing, Jean

Subject: FW: ACTION REQ'D: 0966268 B.C. Ltd. -- Exercise of Option to Purchase of Lots 11 to 14, Plan 168 -- 36 Blood Alley Square -- Stanley New Fountain Hotel

Michael,

Is this figure okay with you?

Thanks,
kim

From: Cheng, Grace

Sent: Tuesday, April 23, 2013 10:48 AM

To: Giuricich, Kim

Cc: Flanigan, Michael; Billing, Jean; Chen, Jack

Subject: FW: ACTION REQ'D: 0966268 B.C. Ltd. -- Exercise of Option to Purchase of Lots 11 to 14, Plan 168 -- 36 Blood Alley Square -- Stanley New Fountain Hotel

See below thx.

Based on the wording in the document, the price is:

$\$2,000,000 \times (120.0/102.2) = \$2,348,337$

Vancouver CPI (2002=100)

March 2013: 120.0

March 2003: 102.2

Source: Statistics Canada

From: Giuricich, Kim

Sent: Monday, April 22, 2013 4:28 PM

To: Cheng, Grace

Cc: Billing, Jean

Subject: FW: 0966268 B.C. Ltd. -- Exercise of Option to Purchase of Lots 11 to 14, Plan 168 -- 36 Blood Alley Square -- Stanley New Fountain Hotel

Grace,

Michael Flannigan has asked that I forward this request to you.

Thanks,
kim

From: Giuricich, Kim

Sent: Monday, April 22, 2013 3:34 PM

To: Flanigan, Michael

Cc: Billing, Jean

Subject: 0966268 B.C. Ltd. -- Exercise of Option to Purchase of Lots 11 to 14, Plan 168 -- 36 Blood Alley Square -- Stanley New Fountain Hotel

<< File: Scanned from Legal Xerox V59001.pdf >>

Michael,

Attached is a copy of the Notice of Exercise of Option to Purchase with the Option to Purchase attached. You will see in 1.1(p) on page 5 the Purchase Price is defined as:

(p) "Purchase Price" means TWO MILLION DOLLARS (\$2,000,000) in then current dollars, which will be the amount which is equal to the product of TWO MILLION DOLLARS (\$2,000,000) multiplied by a fraction the numerator of which is the CPI for the month in which the Option is exercised and the denominator of which is the CPI for March, 2003;

The definition for CPI on page 4 is:

(c) "CPI" means the Consumer Price Index (All Items) for Vancouver, British Columbia, as published by Statistics Canada, provided however if the CPI ceases to use the 1986 average equalling 100 as the basis of calculation, then the CPI will be adjusted to the figure that would have been arrived at had the change in the manner of computing the CPI in effect in 2003 not been made; if the CPI (or a successor or substitute index similarly adjusted) is not available, a reliable or other reputable publication evaluating the information previously used in determining the CPI will be used;

Please provide us with the Purchase Price with the CPI as soon as possible as the closing date is set for April 29, 2013.

Thanks,
Kim

Kim Giuricich | Legal Assistant | City of Vancouver | 604.873.7505 | kim.giuricich@vancouver.ca

This e-mail and the information it contains is privileged and confidential, and only the intended recipient may use it. The City of Vancouver prohibits unauthorized use. If you are not the intended recipient, please immediately send this e-mail back to the sender and delete the original

From: "Flanigan, Michael" <michael.flanigan@vancouver.ca>

To: "Jones, Liz" <liz.jones@vancouver.ca>

Date: 4/17/2013 2:14:56 PM

Subject: FW: multi year cash flow for the PEF

Liz – please add the Stanley New Fountain option payment of \$2.1 million to expected incoming revenue to the PEF for 2013.

From: Aujla, Bill

Sent: Wednesday, April 17, 2013 2:02 PM

To: Flanigan, Michael

Subject: RE: multi year cash flow for the PEF

The deal that Westbank originally put together with Portland Housing and involving the Only was rejected by the City. Therefore, there is no deal that I know of at this time which has any support from City. ... Thanks for including this revenue (with note per your email).

Bill

From: Flanigan, Michael

Sent: Wednesday, April 17, 2013 1:19 PM

To: Aujla, Bill

Subject: Re: multi year cash flow for the PEF

Please note that the Option on the Stanley New Fountain has already been exercised this month by Westbank (they took assignment from PHS), but you are correct that an additional \$2.1 million is expected. s.14 & s.17(1)

Thanks,

M

From: Aujla, Bill

Sent: Wednesday, April 17, 2013 12:46 PM

To: Flanigan, Michael

Subject: RE: multi year cash flow for the PEF

Hi Michael,

What about the Stanley ... if they or another developer exercise their option, wouldn't some money come to the PEF from that? ... is option expiry end of next month?

Bill

Out of Scope & s.17(1)

From: ["Giuricich, Kim" <kim.giuricich@vancouver.ca>](mailto:kim.giuricich@vancouver.ca)

To: ["Flanigan, Michael" <michael.flanigan@vancouver.ca>](mailto:michael.flanigan@vancouver.ca)

Date: 4/22/2013 2:33:36 PM

Subject: 0966268 B.C. Ltd. -- Exercise of Option to Purchase of Lots 11 to 14, Plan 168 --
36 Blood Alley Square -- Stanley New Fountain Hotel

Attachments: Scanned from Legal Xerox V59001.pdf

Michael,

Attached is a copy of the Notice of Exercise of Option to Purchase with the Option to Purchase attached. You will see in 1.1(p) on page 5 the Purchase Price is defined as:

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Please provide us with the Purchase Price with the CPI as soon as possible as the closing date is set for April 29, 2013.

Thanks,
Kim

Kim Giuricich | Legal Assistant | City of Vancouver | 604.873.7505 | kim.giuricich@vancouver.ca

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NOTICE OF EXERCISE OF OPTION TO PURCHASE

TO: City of Vancouver, 453 West 12th Avenue, Vancouver, B.C. V5Y 1V4
Attention: City Clerk

Re: *Option to Purchase BV112005 (the "Option") between the City of Vancouver (the "City") and PHS Community Services Society (formerly Portland Hotel Society) ("PHS"), as assigned by PHS to 0966268 B.C. Ltd.*

Please be advised that the Option (a copy of which is enclosed herewith for your reference), being an option to purchase the following lands owned by the City:

a) PID: 015713-318

Lot 11 Except Portions in Reference Plans 1457 and 11078, Block 2, Old Granville Townsite, Plan 168

b) PID: 015-713-326

Lot 12 Except Part in Reference Plan 11078, Block 2, Old Granville Townsite, Plan 168

c) PID: 015-713-334

Lot 13 Except Part in Reference Plan 11078, Block 2, Old Granville Townsite, Plan 168

d) PID: 015-713-342

Lot 14 Except (A) the East 26 feet and (B) Part in Reference Plan 11078, Block 2, Old Granville Townsite, Plan 168

(collectively, the "**Lands**")


has been assigned by PHS to 0966268 B.C. Ltd. and a copy of a transfer and assignment of the Option with Land Title Office under number CA3053614 is enclosed herewith for your reference.

Pursuant to Article 2 of the Option, 0966268 B.C. Ltd. hereby gives notice to the City that it is exercising the Option and will complete the purchase of the Lands in accordance with the terms of the Option.

Dated: March 28, 2013

0966268 B.C. LTD.

by its solicitors, Kornfeld LLP


cc: City Manager
Director of Legal Services
Director of the Housing Centre

BV112005

LAND TITLE ACT
FORM C

31 MAR 2003 11 57

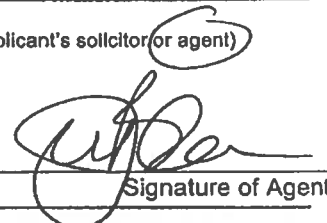
(Section 233)

Province of British Columbia

GENERAL INSTRUMENT - PART 1 (This area for Land Title Office Use) Page 1 of 14 pages

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

Jim Blair
City of Vancouver Law Department
453 West 12th Avenue
Vancouver, B.C., V5Y 1V4
Phone 873-7514 (YAL:kg) Client No. 10647


Signature of Agent

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND: * (PID) (LEGAL DESCRIPTION) CHARGE 448819 \$55.00

015-713-318	Lot 11 Except Portions in Reference Plans 1457 and 11078, Block 2, Old Granville Townsite, Plan 168	88 03/03/31 14:57:33 01 LH CHARGE	448819 \$55.00
015-713-326	Lot 12 Except Part in Reference Plan 11078, Block 2, Old Granville Townsite, Plan 168		
015-713-334	Lot 13 Except Part in Reference Plan 11078, Block 2, Old Granville Townsite, Plan 168		
015-713-342	Lot 14 Except (A) the East 26 feet and (B) Part in Reference Plan 11078, Block 2, Old Granville Townsite, Plan 168		

1 #
CHC

3. NATURE OF INTEREST: * DESCRIPTION	DOCUMENT REFERENCE (page and paragraph)	PERSON ENTITLED TO INTEREST
Option to Purchase	Article 2, Page 8	Transferee

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

- (a) Filed Standard Charge Terms [] D.F. No.
- (b) Express Charge Terms [xx] Annexed as Part 2
- (c) Release [] There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharge as a charge on the land described in Item 2.

5. TRANSFEROR(S)/CHARGEHOLDER(S): *

CITY OF VANCOUVER


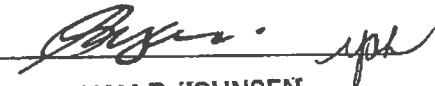

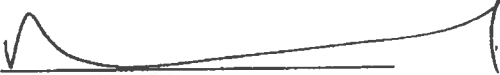
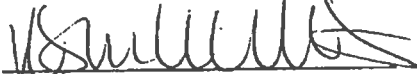
6. TRANSFeree(S): * (including postal address(es) and postal code(s)) *
PORTLAND HOTEL SOCIETY (Incorporation No. S-30883)
20 West Hastings Street, Vancouver, B.C. V6B 1G6

5/5

7. ADDITIONAL OR MODIFIED TERMS:

N/A

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

Officer Signature(s)	Execution Date	Party(les) Signature(s)
	Y M D	
 YVONNE A. LILJEFORS 453 WEST 12th AVENUE VANCOUVER, BC V5Y 1V4 BARRISTER AND SOLICITOR	03 03 31	CITY OF VANCOUVER by its authorized signatory:  GRAHAM P. JOHNSEN
 Arnold BERRY Barrister & Solicitor 1119-808 Nelson Street Vancouver, BC V6Z 2H2	03 03 31	PORTLAND HOTEL SOCIETY by its authorized signatories:  Sign and Print Name: MARIL TOWNSEND  Sign and Print Name: Kess in Starebeck

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

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.
** If space insufficient, continue executions on additional page(s) in Form D.

OPTION TO PURCHASE
TERMS OF INSTRUMENT - PART 2

WHEREAS:

- A. It is understood and agreed that this Instrument will be read as follows:
- (a) the Transferor, **CITY OF VANCOUVER**, is called the "City" when referring to the corporate entity and "City of Vancouver" when referring to geographical location; and
 - (b) the Transferee, **PORTLAND HOTEL SOCIETY**, is called the "Portland";
- B. The City is the owner of the Property (hereinafter defined);
- C. The City has agreed to grant to the Portland the Option (hereinafter defined) to purchase the Property.

NOW THEREFORE in consideration of the matters referred to in the foregoing recitals, the covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is acknowledged and agreed to by the parties, the City and the Portland covenant and agree as follows:

ARTICLE 1

DEFINITIONS AND INTERPRETATION

1.1 Definitions.

The terms defined in this Section 1.1 for all purposes of this Agreement, unless otherwise specifically provided herein, will have the meaning hereinafter specified. The defined terms are:

- (a) "**Completion Date**" means the 30th day after the Notice Date or the first day thereafter that the LTO is open for business to the public;
- (b) "**Contaminants**" mean any deleterious, dangerous, hazardous, corrosive or toxic substances, pollutants, goods or waste the manufacture, storage, handling, treatment, generation, use, or transport, or release, disposal or discharge into the environment, of which any Environmental Laws control, regulate, license or prohibit or which are or may be deleterious, dangerous or hazardous to human, animal or plant health or life or the environment;

- (c) **"CPI"** means the Consumer Price Index (All Items) for Vancouver, British Columbia, as published by Statistics Canada, provided however if the CPI ceases to use the 1986 average equalling 100 as the basis of calculation, then the CPI will be adjusted to the figure that would have been arrived at had the change in the manner of computing the CPI in effect in 2003 not been made; if the CPI (or a successor or substitute index similarly adjusted) is not available, a reliable or other reputable publication evaluating the information previously used in determining the CPI will be used;
- (d) **"day"** means a calendar day;
- (e) **"Director"** means the chief administrator from time to time of the Law Department of the City of Vancouver and her successors in function and respective nominees;
- (f) **"Environmental Laws"** mean all laws, statutes, regulations, rules, bylaws, orders, directives, standards, guidelines and other lawful requirements of any government body, and all principles of common law and equity concerning the quality of the environment, that apply to the Property and its surrounding environment;
- (g) **"LTO"** means the land title office for the jurisdiction in which the Property is situate;
- (h) **"month"** means a calendar month;
- (i) **"Notice"** means the written notice which the Portland delivers to the City pursuant to Section 2.2, exercising the Option;
- (j) **"Notice Date"** means that day upon which the City is deemed, pursuant to Section 4.1, to have received the Notice;
- (k) **"Operating Agreement"** means the agreement of even date hereof between the City and the Portland whereby the Portland agrees to manage and operate the Property for a term of 10 years, subject to earlier termination;
- (l) **"Option"** means the option to purchase Property which the City is giving to the Portland under Section 2.1;
- (m) **"Permitted Encumbrances"** means exceptions and reservations contained in the original Crown grant; Party Wall Agreement 32117H, any statutory right of way or other encumbrance in favour of the City and any existing leases or tenancy agreements;

- (n) **"Person"** means any association, society, corporation, individual, joint stock company, joint venture, partnership, trust, or unincorporated organization;
- (o) **"Property"** means that parcel of land situate in the City of Vancouver, Province of British Columbia, described in Item 2 of the General Instrument Part 1;
- (p) **"Purchase Price"** means TWO MILLION DOLLARS (\$2,000,000) in then current dollars, which will be the amount which is equal to the product of TWO MILLION DOLLARS (\$2,000,000) multiplied by a fraction the numerator of which is the CPI for the month in which the Option is exercised and the denominator of which is the CPI for March, 2003;
- (q) **"Term"** means ten (10) years from the date of registration of this Agreement in the LTO;
- (r) **"Transaction"** means the transfer of the fee simple interest in Property from the City to the Portland, pursuant to the Option and as contemplated by Article 3; and
- (s) **"Transfer"** means a freehold transfer in statutorily prescribed form and otherwise in form and substance satisfactory to the Portland by which the City transfers the Property to the Portland.

1.2 **Time.** Time will be of the essence of this Agreement. If either party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party. If a time is specified in this Agreement for observing or performing any obligation, such time will be then local Vancouver, British Columbia time.

1.3 **Governing law.** This Agreement will be governed by and construed and enforced in accordance with the laws of British Columbia.

1.4 **References.** If the singular, masculine or neuter is used in this Agreement, the same will be deemed to include reference to the plural, feminine, or body corporate according to the context in which it is used.

1.5 **Construction.** The division of this Agreement into sections and the use of headings are for convenience of reference only and are not intended to govern, limit, or aid in the construction of any provision. In all cases, the language in this Agreement will be construed simply, according to its fair meaning, and not strictly for or against either party.

1.6 **No Limitation.** The word "including" when following any general statement, term, or matter is not to be construed to limit such general statement, term, or matter to the specific items set forth immediately following such word or to similar items whether or not

non-limiting, language such as "without limitation" or "but not limited to" or words of similar import are used with reference thereto, but rather such general statement, term, or matter is to be construed to refer to all other items that could reasonably fall within the broadest possible scope of such general statement, term, or matter.

1.7 **Validity of Provisions.** If a Court of competent jurisdiction finds that any provision contained in this Agreement is invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect any other provisions of this Agreement which will be construed as if such invalid, illegal, or unenforceable provision had never been contained therein and such other provisions will be enforceable to the fullest extent permitted at law or at equity.

1.8 **Waiver.** No consent or waiver, expressed or implied, by a party of any default by the other party in observing or performing its obligations under this Agreement will be effective unless given in writing, or be deemed or construed to be a consent or waiver of any other default. Failure on the part of either party to complain of any act or failure to act by the other party or to declare the other party in default, irrespective of how long such failure continues, will not constitute a waiver by such party of its rights under this Agreement or at law or at equity.

1.9 **Statutes.** Any reference in this Agreement to a federal or provincial statute will include the statute as it exists on the date the General Instrument Part 1 is executed and any subsequent amendments or replacements.

1.10 **Remedies.** Each party to this Agreement, in addition to its rights under this Agreement or at law, will be entitled to all equitable remedies including specific performance, injunction and/or declaratory relief, to enforce its rights under this Agreement. No reference to nor exercise of any specific right or remedy under this Agreement or at law or at equity by either party will prejudice, limit or preclude that party from exercising any other such right or remedy. No such right or remedy will be exclusive or dependent upon any other such right or remedy, but either party, from time to time, may exercise any one or more of such rights or remedies independently, successively, or in combination.

ARTICLE 2

OPTION

2.1 **Option.** The City hereby grants to the Portland the exclusive and irrevocable option to purchase the Property, free and clear of all liens, charges and encumbrances except Permitted Encumbrances, according to the terms and conditions set out in this Article 2.

2.2 **Exercise of Option.** The Portland may exercise the Option at any time during the Term by delivering written notice of such exercise to the City, provided that the Option is

null and void and the Portland may not exercise the Option at any time after either party gives to the other party notice in accordance with the terms of the Operating Agreement that the Operating Agreement is terminated (and the Operating Agreement is actually terminated in accordance with such notice), including any notice given by the City to the Portland terminating the Operating Agreement due to breach by the Portland of its obligations under the Operating Agreement.

2.3 Effect of Option Exercise. From and after the Notice Date, this Agreement and the Notice will together constitute a binding and enforceable contract between the City and the Portland for the sale and purchase of the Property according to the terms and conditions of Article 3, and the terms and conditions of Article 3 will take effect at that time.

2.4 Registration of Option in LTO. The City agrees to cause this Option to be registered in the LTO against title to the Property as a first registered charge excepting only Permitted Encumbrances.

ARTICLE 3

SALE AND PURCHASE

3.1 Purchase and Sale. Subject to the terms and conditions of this Article 3 and based on the warranties and representations set out in this Agreement, the City agrees to sell and the Portland agrees to purchase the Property on the Completion Date for the Purchase Price.

3.2 Purchase Price. The Portland will pay the Purchase Price to the City on the Completion Date.

3.3 City's Representations. The City represents and warrants to the Portland that:

- (a) the City has sufficient power, authority and capacity to carry out the Transaction, which will have been duly and validly authorized by all necessary municipal proceedings;
- (b) the City has good and marketable title to the Property, free and clear of all liens, charges or encumbrances, except the Permitted Encumbrances;
- (c) by completing the Transaction, the City will not be in breach of any statute or bylaw or of any agreement by which the City is bound;
- (d) the City has no Indebtedness to any Person or to any statutory authority which will constitute a lien, charge or encumbrance on Property; and

(e) the City is "resident" in Canada under the *Income Tax Act* (Canada).

3.4 **No Other Representations.** The City is not giving to the Portland, and the Portland is not requiring from the City, any express or implied representation regarding the dimensions or area of the Property or that, before or after the Completion Date:

3.4.1 the Property and its surrounding environment complies or does not comply with Environmental Laws;

3.4.2 the Property and its surrounding environment is or is not free from Contaminants;

3.4.3 any Contaminants have or have not been released, spilled, leaked, pumped, poured, emitted, emptied, discharged, dumped or disposed of, or have or have not escaped, leached, or migrated, from the Property and its surrounding environment to, on, or under adjacent lands or their surrounding environment;

3.4.4 the Property will or will not be environmentally or otherwise suitable for any purpose including occupancy, development, or derivation of revenue; or

3.4.5 the improvements comprising the Property are or are not in good repair or condition.

3.5 **Portland's Representations.** Regardless of any independent investigations the City may make, the Portland represents and warrants to the City that:

3.5.1 the Portland is a society, it is in good standing under the laws of British Columbia, and it has sufficient power, authority, and capacity to purchase the Property from the City;

3.5.2 the Portland has had, on or before the Completion Date, full opportunity to make all appropriate inquiries into the previous uses of the Property, and to undertake all other investigations consistent with good commercial or customary practice, in order to determine the condition, state of compliance with Environmental Laws, and fitness for purpose of the Property.

3.6 **Risk.** The Property will be at the risk of the City up to the time the Transfer is submitted for registration on the Completion Date and will be at the risk of the Portland from and after the time of such submission. If before the Completion Date the Property is materially damaged such that the cost to repair the damage is estimated to exceed \$100,000, the Portland may, at its option:

- (a) complete the purchase of the Property and the City will assign any applicable insurance proceeds to the Portland; or
- (b) terminate this agreement and any deposit will be returned to the Portland.

If before the Completion Date, the Property is materially damaged such that the cost to repair the damage is estimated to be less than \$100,000, the City will assign any applicable insurance proceeds to the Portland and the Portland will complete the purchase of the Property.

3.7 City's Covenants. The City will:

- (a) take all proper actions and proceedings on its part to enable it to vest a good and marketable title to the Property in the Portland, free and clear of all liens, charges or encumbrances, except the Permitted Encumbrances; and
- (b) deliver possession of the Property to the Portland on the Completion Date after payment of the Purchase Price, subject to any existing leases or tenancy agreements.

3.8 Property Condition Disclosure Statement. The City has no obligation to deliver to the Portland a Property Condition Disclosure Statement.

3.9 Condition of the Property and Environmental Responsibility. The Portland will:

- 3.9.1 buy the Property from the City "as is, where is";
- 3.9.2 not rely on any environmental reports or investigations from or supplied by the City, and will conduct its own investigations and satisfy itself, at its cost, regarding the matters set out in subsections 3.10.1 to 3.10.4;
- 3.9.3 waive any requirement for the City to provide to the City a site profile for the Property under the *Waste Management Act* of British Columbia or any regulation pursuant to that Act; and
- 3.9.4 assume full responsibility for the matters set out in subsections 3.10.1 to 3.10.4 and for any remediation of the Property required under any Environmental Laws.

3.10 Indemnity. The Portland, from and after the Completion Date, will release the City and also indemnify the City and save it harmless from all liabilities, suits, actions, obligations, statutory or other proceedings, judgements, investigations, demands, claims, losses, damages, consequential damages, remediation cost recovery claims, remediation costs, fines, penalties, expenses, and legal costs on a solicitor-client basis, the City may

suffer or incur, arising out of non-compliance of the Property with any Environmental Laws, or any investigation or claim of non-compliance by any Person; and the presence within the Property, on or prior to the Completion Date, of Contaminants, or the leaching, escaping, or migrating of Contaminants from the Property to other lands.

3.11 **Documents.** The Portland will prepare the documents necessary to close the Transaction, which will be in form and substance reasonably satisfactory to the City.

3.12 **Adjustments and Credits.** The City and the Portland will adjust, as at the Completion Date, all usual adjustments for property of this nature.

3.13 **City's Closing Documents.** At the closing, the City will deliver to the Portland the following executed documents:

- (a) the Transfer;
- (b) an assignment of any existing leases and tenancy agreements; and
- (c) the City's statement of adjustments.

3.14 **Portland's Closing Documents.** At the closing, the Portland will deliver to the City a duly executed statement of adjustments and a certified cheque for the Purchase Price.

3.15 **Closing.** On the Completion Date, all documents and cheques delivered by the City and the Portland except the Transfer will be held by the solicitors for the Portland, who will cause the Transfer to be tendered for registration in the LTO and after conducting a post depositing search in the LTO the results of which are satisfactory to them, the Portland will cause its solicitors to release all documents and cheques, including a certified cheque drawn in favour of the City in the amount equal to the net adjusted portion of the Purchase Price which is due to the City on the Completion Date.

3.16 **Survival.** All the representations, warranties, covenants and agreements of the City and the Portland contained in this Article 3 will survive the Completion Date, registration of documents, and payment of the Purchase Price.

ARTICLE 4

GENERAL PROVISIONS

4.1 **Notice.** Any notice, approval or request required or permitted to be given under this Agreement will be in writing and may be served on the parties by registered mail, by telecopied transmission, or by personal service, to the following addresses:

Portland Hotel Society
20 West Hastings Street
Vancouver, British Columbia
V6B 1G6

Attention: Executive Director

and in the case of the City addressed to it at:

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

Attention: City Clerk

with a copy to the City Manager, Director of Legal Services and the Director of the Housing Centre,

or at such other address as the parties may from time to time advise by notice in writing. Any such notice, approval or request will be deemed to have been received on the date of delivery of such notice, approval or request or, on the third business day next following the date of such mailing if mailed as aforesaid, provided that if mailed should there be, between mailing and the actual receipt of such notice, approval or request, a mail strike, slowdown or other labour dispute which might affect the delivery of such notice, approval or request, such notice, approval or request will only be effective if actually delivered.

4.2 **Fees.** Each of the City and the Portland will pay its own legal fees. The Portland will pay all fees in connection with registration of the Transfer and any GST, Property Transfer Tax, Social Service Tax or other taxes or transfer costs applicable to the transfer of the Property.

4.3 **Option Runs with Land.** All the grants and covenants made in this Agreement by the City are made by the City for itself and its successors and assigns and the Option will run with and bind Property and each and every part into which the same may be subdivided.

12

4.5 **Enuring Effect.** This Agreement will enure to the benefit of and be binding upon the respective successors and assigns of the City and the Portland.

4.6 **Reference Date.** This Agreement is dated for reference March 26, 2003 notwithstanding the date of execution of this Agreement.

IN WITNESS WHEREOF the parties have executed this Agreement on the General Instrument - Part 1 which is a part hereof.

END OF DOCUMENT

#63055v1
March 27, 2003

OPTION TO PURCHASE
STANLEY/NEW FOUNTAIN HOTEL

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

Mar-28-2013 12:12:13.001

CA3053614

PAGE 1 OF 4 PAGES

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

Wesley Ying
Lok Chan
NF1AZ2

Digitally signed by Wesley Ying Lok Chan NF1AZ2
DN: c=CA, cn=Wesley Ying Lok Chan NF1AZ2, o=Lawyer, ou=Verify ID at www.juricert.com/LKUP.cfm? id=NF1AZ2
Date: 2013.03.28 12:01:57 -07'00'

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

Kornfeld LLP

Barristers & Solicitors

1100 - 505 Burrard Street

Vancouver

BC V7X 1M5

Telephone No. (604) 331-8300

LTO Client No. 010448

File No.

Document Fees: \$72.50

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

SEE SCHEDULESTC? YES

3. NATURE OF INTEREST

Transfer of Charge

CHARGE NO.

BV112005

ADDITIONAL INFORMATION

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

(a) Filed Standard Charge Terms D.F. No.(b) Express Charge Terms Annexed as Part 2

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

5. TRANSFEROR(S):

**PHS COMMUNITY SERVICES SOCIETY (INC. S-0030883) (FORMERLY KNOWN AS
PORTLAND HOTEL SOCIETY)**

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

0966268 B.C. LTD.

501 - 1067 WEST CORDOVA STREET

VANCOUVER

V6C 1C7

BRITISH COLUMBIA

CANADA

Incorporation No

BC0966268

7. ADDITIONAL OR MODIFIED TERMS:

N/A

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

Officer Signature(s)

James P. Clarke

Lawyer

920 - 470 Granville Street
Vancouver, B.C. V6C 1V5
as to both signatures

Execution Date

Y	M	D
13	03	27

Transferor(s) Signature(s)

PHS COMMUNITY SERVICES
SOCIETY by its authorized
signatory(ies):

Name: Shawn Millar

Name: Tom Laviolette

OFFICER CERTIFICATION:

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

LAND TITLE ACT
FORM E

SCHEDULE

PAGE 2 OF 4 PAGES

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]**015-713-318** **LOT 11 EXCEPT PORTIONS IN REFERENCE PLANS 1457 AND 11078, BLOCK 2 OLD GRANVILLE TOWNSITE PLAN 168**STC? YES 2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]**015-713-326** **LOT 12 EXCEPT PART IN REFERENCE PLAN 11078, BLOCK 2 OLD GRANVILLE TOWNSITE PLAN 168**STC? YES 2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]**015-713-334** **LOT 13, EXCEPT PART IN REFERENCE PLAN 11078, BLOCK 2 OLD GRANVILLE TOWNSITE PLAN 168**STC? YES

**LAND TITLE ACT
FORM E**

SCHEDULE

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

**015-713-342 LOT 14, EXCEPT (A) THE EAST 26 FEET AND (B) PART IN REFERENCE PLAN
11078, BLOCK 2 OLD GRANVILLE TOWNSITE PLAN 168**

STC? YES

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

STC? YES

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

STC? YES

TERMS OF INSTRUMENT

- A. By an Option to Purchase registered in the Land Title Office under number BV112005 (the "**Option to Purchase**"), the City of Vancouver granted to the Transferor an option to purchase the lands (the "**Lands**") described in Item 2 of the attached Form C; and
- B. The Transferor has agreed to assign all of its right, title and interest in and to the Option to Purchase to the Transferee.

NOW THEREFORE THIS ASSIGNMENT WITNESSES that in consideration of the premises and of the sum of \$1.00 and other valuable consideration paid by the Transferee to the Transferor (receipt of which is hereby acknowledged by the Transferor), the Transferor and Transferee agree as follows:

- 1. The Transferor hereby grants, transfers, assigns and sets over to the Transferee, all of its right, title and interest in and to the Option to Purchase.
- 2. This Assignment shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

END OF DOCUMENT

From: ["Carr, Dennis" <Dennis.Carr@vancouver.ca>](mailto:Dennis.Carr@vancouver.ca)

To: ["Prosken, Brenda" <Brenda.Prosken@vancouver.ca>](mailto:Brenda.Prosken@vancouver.ca)
["Aujla, Bill" <bill.aujla@vancouver.ca>](mailto:bill.aujla@vancouver.ca)

Date: 4/4/2013 3:18:32 PM

Subject: Stanley New Fountain

I am wondering if there is an update on this site. We refused the lease extension of 90 days from March 31st; or at least we refused the extension of the option to purchase. Has PHS indicated they will purchase the building from us by paying the option price (which, going from memory will be paid to us at the end of April) or will the property revert to the City?

Dennis Carr LEED® AP
Assistant Director, Social Infrastructure
City of Vancouver
604 873-7207

From: "[Prosken, Brenda](mailto:Brenda.Prosken@vancouver.ca)" <Brenda.Prosken@vancouver.ca>

To: "[Ballem, Penny](mailto:Penny.Ballem@vancouver.ca)" <Penny.Ballem@vancouver.ca>
"[Aujla, Bill](mailto:bill.aujla@vancouver.ca)" <bill.aujla@vancouver.ca>
"[Francis, Andrew](mailto:Andrew.Francis@vancouver.ca)" <Andrew.Francis@vancouver.ca>
"[Impey, Patrice](mailto:Patrice.Impey@vancouver.ca)" <Patrice.Impey@vancouver.ca>

Date: 2/6/2013 1:18:35 PM

Subject: IMPORTANT UPDATE ON STANLEY NEW FOUNTAIN and PHS

Penny, Bill and Patrice,

As Housing is signature to the above lease, I just got a call from Ian Gillespie requesting a lease extension of 90 days from March 31st when it expires s.13(1) & s.14

[REDACTED]

I advised Ian I would get back to him

shortly as he's anxious to send me this request. Thx, B

Brenda Prosken
General Manager
Community Services
City of Vancouver
brenda.prosken@vancouver.ca
604.871.6858

From: ["Robinson, Doug" <doug.robinson@vancouver.ca>](mailto:doug.robinson@vancouver.ca)

To: ig@westbankcorp.com

Date: 1/31/2013 11:48:05 AM

Subject: Redevelopment of the Stanley New Fountain/"Only" Sites

Attachments: Response Letter Version 5.docx

Ian Gillespie:

Thank you for your patience regarding the City's response to your proposal for redevelopment of the Stanley New Fountain/Only sites.

Attached please find, after careful review, the City's response on a number of important elements of the proposal.

Doug Robinson
Assistant Director, Enquiries & Special Projects
Planning and Development Services
Phone: 604-871-6092
Email: doug.robinson@vancouver.ca

January 31, 2013

Ian Gillespie
Westbank Projects Corp.
Suite 501 - 1067 West Cordova St.
Vancouver, BC
V6C 1C7

Re: Redevelopment Proposal for Stanley New Fountain/Only Restaurant

Ian Gillespie:

Thank you for the Westbank's proposal in partnership with the Portland Hotel Society (PHS) to redevelop the Stanley New Fountain (36 E Cordova St) and the "Only" site (20 E. Hastings St).

The proposal is complex and has implications for a number of important City policies. In brief summary, the City understands that Westbank/PHS propose to exercise the option to purchase the Stanley New Fountain (SNF), the proceeds of which the City is expected to use to purchase the "Only" site. Westbank would build market condos on the New Fountain portion of the SNF site and PHS would assume control of all the non-market housing on both the SNF and "Only" sites (the later under 99 year lease from the City)

The proposal assumes the City will contribute in both cash and for-gone revenue of approximately \$11M. In exchange for this contribution, the City can expect a combination of shelter beds and self-contained studio units as non-market housing.

Staff have evaluated the proposal and can support some of the "asks" but not others. The City's response can be summarized as follows:

1. The City would accept an application for development on the SNF site for mixed tenure of condos and non-market self-contained studio units subject to the customary review of building form, shadowing, heritage restoration and other related issues by the Development Permit Board;
2. The City is not prepared to consider redevelopment of the "Only" site as a component of this transaction;
3. The City would consider parking reductions/relaxations as per the Parking By-law but not a wholesale waiver of spaces or pay-in-lieu;
4. The City would consider funding for heritage façade retention/restoration (\$50,000 per façade) and improvements to the Blood Alley public space;
5. The City would approve self-contained studio units only - no shelter beds;
6. The City is prepared to make a contribution from the Affordable Housing Fund subject to Council approval in an amount to be determined should any assistance is required;
7. The City would require written confirmation from BC Housing that subsidy funding for the self-contained studio units will continue beyond June 2014 and for a time period to be determined;

8. Subsidized non-market self-contained studio units are eligible for an exemption of DCLs;
9. The City will not offer City funding for existing operating losses on the SNF;
10. The City will not waive permit fees or provide property tax relief; and
11. The City will not reinvest DCLs payable on the condo units in the redevelopment project.

The City is very interested in the redevelopment of the Stanley New Fountain site. We remain interested in all possible redevelopment options and are prepared to discuss further the pending option to purchase which we understand is due April 1, 2013.

Should the conditions of the above still provide an opportunity for redevelopment, the City would be prepared to continue discussion of next steps. Please contact Kevin McNaney at 604-871-6851.

Sincerely,

Brian Jackson, MCIP
General Manager
Planning & Development Services

Brenda Proskan
General Manager
Community Services

Bill Aujla
General Manager
Real Estate & Facilities
Management

- cc. Dennis Carr, Social Development
Kevin McNaney, Planning & Development
Michael Flanigan, Real Estate
Grace Cheng, Financial Policy and Projects
Liz Jones, Financial Planning & Analysis

From: ["Robinson, Doug" <doug.robinson@vancouver.ca>](mailto:doug.robinson@vancouver.ca)

To: ["Jackson, Brian \ \(CSG\)" <Brian.Jackson@vancouver.ca>](mailto:Brian.Jackson@vancouver.ca)
["Prosken, Brenda" <Brenda.Prosken@vancouver.ca>](mailto:Brenda.Prosken@vancouver.ca)
["Aujla, Bill" <bill.aujla@vancouver.ca>](mailto:bill.aujla@vancouver.ca)

Date: 1/30/2013 8:05:51 AM

Subject: Stanley New Fountain - Response Letter

Attachments: Response Letter Version 5.docx

Brian/Brenda/Bill:

Attached please find letter from the City to Westbank/PHS describing our response to their proposal to develop the Stanley New Fountain and "Only" site. The letter has been reviewed by those cc in the email. If you're comfortable with the letter, I'll arrange to have it sent asap.

Doug Robinson
Assistant Director, Enquiries & Special Projects
Planning and Development Services
Phone:604-871-6092
Email:doug.robinson@vancouver.ca

January 28, 2013

Ian Gillespie
Westbank Projects Corp.
Suite 501 - 1067 West Cordova St.
Vancouver, BC
V6C 1C7

Re: Redevelopment Proposal for Stanley New Fountain/Only Restaurant

Ian Gillespie:

Thank you for the Westbank's proposal in partnership with the Portland Hotel Society (PHS) to redevelop the Stanley New Fountain (36 E Cordova St) and the "Only" site (20 E. Hastings St).

The proposal is complex and has implications for a number of important City policies. In brief summary, the City understands that Westbank/PHS propose to exercise the option to purchase the Stanley New Fountain (SNF), the proceeds of which the City is expected to use to purchase the "Only" site. Westbank would build market condos on the New Fountain portion of the SNF site and PHS would assume control of all the non-market housing on both the SNF and "Only" sites (the later under 99 year lease from the City)

The proposal assumes the City will contribute in both cash and for-gone revenue of approximately \$11M. In exchange for this contribution, the City can expect a combination of shelter beds and self-contained studio units as non-market housing.

Staff have evaluated the proposal and can support some of the "asks" but not others. The City's response can be summarized as follows:

1. The City would accept an application for development on the SNF site for mixed tenure of condos and non-market self-contained studio units subject to the customary review of building form, shadowing, heritage restoration and other related issues by the Development Permit Board;
2. The City is not prepared to consider redevelopment of the "Only" site as a component of this transaction;
3. The City would consider parking reductions/relaxations but not a wholesale waiver of spaces or pay-in-lieu;
4. The City would consider funding for heritage façade retention/restoration and improvements to the Blood Alley public space;
5. The City would accept self-contained studio units only - no shelter beds;
6. The City is prepared to make a contribution from the Affordable Housing Fund subject to determining if any assistance is required and Council approval;
7. The City would require written confirmation from BC Housing that subsidy funding for the self-contained studio units will continue beyond June 2014;
8. The City would accept a waiver of DCLs for subsidized self-contained studio units;
9. The City will not accept City funding for existing operating losses on the SNF;

C:\Users\CCAG\AppData\Local\Temp\src000002Response Letter Version 5.docx

10. The City will not waive permit fees or provide property tax relief; and
11. The City will not reinvest DCLs payable on the condo units in the redevelopment project.

The City is very interested in the redevelopment of the Stanley New Fountain site. We remain interested in all possible redevelopment options and are prepared to discuss further the pending option to purchase which we understand is due April 1, 2013.

Should the conditions of the above still provide an opportunity for redevelopment, the City would be prepared to continue discussion of next steps. Please contact Kevin McNaney at 604-871-6851.

Sincerely,

Brian Jackson, MCIP
General Manager
Planning & Development Services

Brenda Proskan
General Manager
Community Services

Bill Aujla
General Manager
Corporate Services

From: "[Carr, Dennis](mailto:Dennis.Carr@vancouver.ca)" <Dennis.Carr@vancouver.ca>

To: "[Flanigan, Michael](mailto:michael.flanigan@vancouver.ca)" <michael.flanigan@vancouver.ca>
"[De Hoop, Jim](mailto:Jim.DeHoop@vancouver.ca)" <Jim.DeHoop@vancouver.ca>
"[McNaney, Kevin](mailto:kevin.mcnaney@vancouver.ca)" <kevin.mcnaney@vancouver.ca>
"[Robinson, Doug](mailto:doug.robinson@vancouver.ca)" <doug.robinson@vancouver.ca>
"[Cheng, Grace](mailto:grace.cheng@vancouver.ca)" <grace.cheng@vancouver.ca>

Date: 1/8/2013 6:05:56 PM

Subject: Stanley New Fountain/The Only Proposal

Attachments: SNF Proposal Topics Jan 8 13.docx

In preparation for our meeting Friday attached is a discussion document that outlines the PHS/Westbank proposal and the possible City response. Thanks to Doug for the template. I have highlighted some areas of particular concern; there may be others. As you may be aware, overall leadership on this file is being provided by the 3B's (Brian, Bill and Brenda). We are tasked with providing recommendations and commentary to them. After Friday's meeting, a MOU can be drafted should the decision be made to enter into discussions with PHS and Westbank.

Grace: I don't know if you have knowledge of this file. Please contact either Doug or myself if you have any questions.

Dennis Carr LEED® AP
Assistant Director, Social Infrastructure
City of Vancouver
604 873-7207

From: "[Jackson, Brian \ \(PDS\\)](mailto:Brian.Jackson@vancouver.ca)" <Brian.Jackson@vancouver.ca>
To: "[Prosken, Brenda](mailto:Brenda.Prosken@vancouver.ca)" <Brenda.Prosken@vancouver.ca>
Date: 4/10/2013 10:51:13 AM
Subject: Fw: Stanley New Fountain

Fyi.

From: Ian [<mailto:ig@westbankcorp.com>]
Sent: Wednesday, April 10, 2013 11:49 AM
To: Jackson, Brian (CSG)
Subject: RE: Stanley New Fountain

Yes its under contract and we close on it on April 29th. As discussed we are no hurry on what to do with it. Maybe we can have a lunch with you and Gregory and a few smart people and brainstorm options on it. Gregory has done up a dozen options on it but I'm not sure any of them are transformative in nature. I guess we have to decide if we want this to fit in or be a breath of fresh air.

ig

From: Jackson, Brian (CSG) [<mailto:Brian.Jackson@vancouver.ca>]
Sent: April-10-13 11:35 AM
To: Ian
Subject: Stanley New Fountain

Ian

We keep getting enquiries about the Stanley New Fountain... again, you bought it, right?

Brian J. Jackson, MCIP

General Manager, Planning and Development Services

CITY OF VANCOUVER | [p] 604 873 7034

brian.jackson@vancouver.ca

From: Prosken, Brenda
Sent: Wednesday, February 06, 2013 1:19 PM
To: Ballem, Penny; Aujla, Bill; Francis, Andrew; Impey, Patrice
Cc: Jackson, Brian (CSG); Carr, Dennis; Cheng, Grace; Flanigan, Michael
Subject: IMPORTANT UPDATE ON STANLEY NEW FOUNTAIN and PHS

Penny, Bill and Patrice,

As Housing is signature to the above lease, I just got a call from Ian Gillespie requesting a lease extension of 90 days from March 31st when it expires [s.13\(1\)](#)

[REDACTED]

I advised Ian I would get back to him

shortly as he's anxious to send me this request. Thx, B

Brenda Prosken
General Manager
Community Services
City of Vancouver
brenda.prosken@vancouver.ca
604.871.6858

From: Prosken, Brenda
Sent: Wednesday, February 06, 2013 1:19 PM
To: Ballem, Penny; Aujla, Bill; s.14; Impey, Patrice
Cc: Jackson, Brian (CSG); Carr, Dennis; Cheng, Grace; Flanigan, Michael
Subject: IMPORTANT UPDATE ON STANLEY NEW FOUNTAIN and PHS

Penny, Bill and Patrice,

As Housing is signature to the above lease, I just got a call from Ian Gillespie requesting a lease extension of 90 days from March 31st when it expires s.13(1)

[REDACTED]

I advised Ian I would get back to him

shortly as he's anxious to send me this request. Thx, B

Brenda Prosken
General Manager
Community Services
City of Vancouver
brenda.prosken@vancouver.ca
604.871.6858