

File No.: 04-1000-20-2021-286

July 16, 2021

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 June 3, 2021 for:

Record of any public open space agreements or statutory rights of way in connection with the public space (closed road portion on Robson Street) between the Art Gallery and the Courthouse (800 Hornby Street Lots 51, 61 and 71).

All responsive records are attached.

Under section 52 of the Act, and within 30 business days of receipt of this letter, you may ask the Information & Privacy Commissioner to review any matter related to the City's response to your FOI request by writing to: Office of the Information & Privacy Commissioner, info@oipc.bc.ca or by phoning 250-387-5629.

If you request a review, please provide the Commissioner's office with: 1) the request number (#04-1000-20-2021-286); 2) a copy of this letter; 3) a copy of your original request; and 4) detailed reasons why you are seeking the review.

Yours truly,

[Signature on file]

Barbara J. Van Fraassen, BA
Director, Access to Information & Privacy

Barbara.vanfraassen@vancouver.ca
453 W. 12th Avenue Vancouver BC V5Y 1V4

*If you have any questions, please email us at foi@vancouver.ca and we will respond to you as soon as possible. Or you can call the FOI Case Manager at 604.871.6584.

Encl.

:kt

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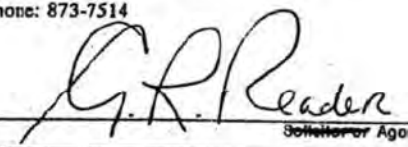
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LAND REGISTRY
VANCOUVER

~~655602-L~~

Space above for Land Registry Office Use.

1 extra title

A. Charge by way of: Easement and Indemnity Agreement		Substitute Form C-Particulars	
C. Address of party entitled to be registered if different from that shown in Instrument:		B. Full name, postal address and telephone of person presenting instrument for registration: LAW DEPARTMENT CITY OF VANCOUVER 453 West 12th Avenue Vancouver 10, B.C. Telephone: 873-7514	
D. Declared value: \$ 100.00	British Subject Yes..... No.....	 Solicitor Agent	

For Land Registry Office Use

ENCROACHMENT AGREEMENT

THIS AGREEMENT dated the 23 day of August 1978

BETWEEN

BRITISH COLUMBIA BUILDINGS CORPORATION,
a company duly incorporated pursuant to
an Act of the Legislature of the Province
of British Columbia and having an office
situated at 400-910 Government Street,

Victoria
of the City of Vancouver, in the Province of British Columbia,

PLAN REFERRED TO HEREIN
RECEIVED AND HELD UNDER
DOCUMENT NUMBER **F 63125**

OF THE FIRST PART

AND

CITY OF VANCOUVER, hereinafter called the "City",

OF THE SECOND PART.

WHEREAS the Party of the First Part is the registered owner of

MEMORANDUM OF REGISTRATION REGISTERED

SEP 19 1978

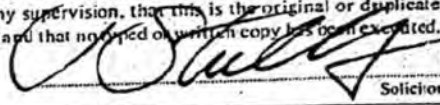
on application received at the time written or stamped by the applicant.
D. H. STIRCH
REGISTRAR
VANCOUVER LAND REGISTRATION DISTRICT

Blocks 51 and 61,
District Lot 541,
Plan 14423

and

Block 71,
District Lot 541,
Plan 15322

I CERTIFY that this document was prepared by me or under my supervision, that this is the original or duplicate original and that no typed or written copy has been executed.


Solicitor

in the City of Vancouver, and has requested the City to grant him permission to construct, use or continue the or existence of an encroachment appurtenant to the above-described lands, which request the City has agreed to grant, subject to the provisions of the "Encroachment By-law" and amending By-laws, and subject to the terms and conditions herein set forth:

- 8 SEP 78

VANCOUVER
LAND REGISTRY
DISTRICT

100550

NOW THIS AGREEMENT WITNESSETH:

1. That, in consideration of the premises and the covenants contained herein by the Owner to be performed and observed, the City doth (so far as it legally can, but not otherwise), subject to the Encroachment By-law aforesaid and the other By-laws herein referred to, grant unto the Owner permission to construct and maintain an encroachment comprising

- (i) exposed aggregate surface paving for sidewalks, curbs and roadway;
- (ii) six landscaped areas;
- (iii) two trees;
- (iv) two sets of steps;
- (v) six litter containers;
- (vi) fourteen decorative lamp standards each with sixteen decorative lights;
- (vii) two round bus shelter canopies (to be attached to decorative lamp standards); and
- (viii) two round sign panels

all to be situate on that portion of Robson Street bounded by Howe Street and Hornby Street the same as shown outlined in red on the plan attached hereto which certain area is hereinafter called "the encroachment area"

and adjoining the lands hereinbefore described and in accordance with the plan hereto attached, which said encroachment, including all excavation or other work now or hereafter performed in connection therewith, is hereinafter referred to in this agreement and described as the "said works".

It is hereby understood, covenanted and agreed, by and between the parties hereto that no provision of these presents and no act or omission or finding of negligence, whether joint or several, as against the City, in favour of any third party, shall operate to relieve, or be deemed to relieve, the Owner in any manner whatsoever from any liability to the City in the premises, or under these presents, or under the provisions of the "Vancouver Charter", and amendments thereto.

2. The Owner covenants and agrees that he will pay to the City the fee of twenty-two dollars and ten cents (\$22.10) upon the execution of this agreement and also for the permission hereby granted the annual sum of one hundred and four dollars and twenty-five cents (\$104.25) being fifteen dollars and seventy-five cents (\$15.75) for the sixty-three (63) square feet occupied by the two sets of steps and eighty-eight dollars and fifty cents (\$88.50) for the three hundred and fifty four (354) square feet occupied by the two bus shelter canopies (the first annual payment of one hundred and four dollars and twenty-five cents (\$104.25) to be payable upon the execution of this agreement and thereafter on the first day of June in each and every year during the continuance of this agreement PROVIDED HOWEVER and the Owner agrees that when and if the schedule of fees provided in the Encroachment By-law is increased then the annual fee payable shall be increased as shall then be provided from time to time.

3. AND the Owner doth hereby charge his interest in the lands hereinbefore described in favour of the City for the payment of all sums which may at any time hereafter be payable by the City in respect of any claims, loss, damage or expense of whatsoever kind arising from the construction, maintenance, or existence of the said works or from the permission hereby granted, and to answer any indemnity or payment provided in the said Encroachment By-law or in any other By-law referred to herein, or under the terms of this agreement.

4. AND the Owner covenants that the City's servants or agents shall have the right at any and all times of entering into and upon the premises of the Owner for the purpose of constructing, maintaining, inspecting or removing any public works or utility running underneath the sidewalk or in the vicinity of the said works.

5. AND the Owner also covenants and agrees that in the event of any alteration or change being rendered necessary by the construction, maintenance, use or removal of the said works to any meter, water-service, sewer, or other public works or utility in the vicinity of the hereinbefore described property, the Owner will reimburse the City for whatever sums may be incurred by the City in making such alterations or changes as may be deemed necessary by the City Engineer.

6. THIS agreement is entered into pursuant to and the Owner covenants and agrees at all times to observe and perform the provisions of the Encroachment By-law of the City, aforesaid, and amending By-laws, and this agreement shall be at all times subject thereto as well as to all other By-laws of the City; and in case the Owner shall fail to comply with the provisions of the said By-laws, or any of them, or of this agreement, all rights of the Owner hereunder shall thereupon terminate and be at an end; but the City, nevertheless, shall be entitled to proceed with the enforcement of any security or indemnity herein provided, or upon any bond or otherwise in satisfaction of any claim, loss or expenses of whatsoever kind arising under this agreement, or from the permission hereby granted.

PROVIDED HOWEVER that in the event this agreement is registered as a charge against the lands above-mentioned, none of the Owner's covenants herein contained shall be personal or binding upon the Owner save or except during the Owner's seizin or ownership of any interest in the said lands, and with respect only to the portion of the said lands of which the Owner shall be seized or in which he shall have an interest; but that the said lands shall, nevertheless, be and remain at all times charged therewith.

7. IT IS HEREBY UNDERSTOOD AND AGREED between the parties hereto that this agreement shall not in any way operate to restrict the right of the City at any time to alter, whether by widening the roadway or boulevard, or by raising or lowering the elevation of the roadway and/or boulevard, abutting or adjoining the lands hereinbefore described, and notwithstanding that the effect of such alteration in width and/or elevation may be to render the said works useless for the purposes of the Owner; and the Owner covenants that, in the event of the City effecting any such alteration as aforesaid in the width and/or elevation of the said roadway and/or boulevard, he will release and forever discharge, and doth hereby release and forever discharge, the City from all manner of claims of any nature whatsoever, which may arise by reason of such alteration in width and/or elevation as aforesaid, or by reason of the discontinuance and removal of the subject of this agreement, as a result of such alteration in width and/or elevation.

8. In particular, but without restricting the generality of the foregoing, it is understood and agreed that:

(a) This agreement may be revoked at any time by the City;

(b) The Owner will at all times, and at his own expense, keep and maintain the said works in good and sufficient repair to the satisfaction of the City Engineer;

(c) In the event of the termination of this agreement from any cause whatsoever, the Owner will, at his own expense, and within a period of six months from the date of such termination, or such shorter period as may be specified by the City Council, remove the said works and fill up any excavation made, constructed, or maintained, with respect to such encroachment, and replace and put the sidewalk, street, lane, or other public place in, under or over such area in the same condition as the adjoining sidewalk, street, lane, or other public place to the satisfaction of the City Engineer;

(d) In the event of the Owner failing to keep any encroachment or covering thereof in good and sufficient repair to the satisfaction of the City Engineer, or failing to remove the said works, or to fill up any excavation, the City Engineer shall make such repairs, including structural changes, when by him deemed necessary, or remove such structures or works, or fill up such excavation, as the case may require, in the opinion of the City Engineer, and the Owner shall pay the costs of such work to the City forthwith; and in the default of payment thereof, the amount of such cost with interest at six per cent per annum may be recovered in any Court of competent jurisdiction, or the same may be recovered in like manner as overdue taxes against the lands to which such area is appurtenant.

9. The Owner shall weed, prune, clip and fertilize all landscaping as would a prideful and prudent gardener and shall remove and replace all dead or diseased plant life.

10. The Owner shall keep the encroachment area in a safe, neat and tidy condition and free from nuisance at all times.

11. The City shall supply energy for the decorative lights attached to the fourteen decorative lamp standards and shall repair and maintain same to the same standard that the City repairs and maintains street lighting of usual design in the City of Vancouver and the Owner shall pay annually to the City the cost of such energy, repairs and maintenance as the same shall be determined in the bona fide opinion of the City Engineer.

12. The City shall supply energy to the two round sign panels and the Owner shall pay annually to the City the cost of such energy as the same shall be determined in the bona fide opinion of the City Engineer.

13. In the event that the lighting energy which the City has hereby agreed to supply is interrupted for any reason whether or

not such interruption is the result of negligence on the part of the City, its servants, agents, contractors and subcontractors, the Owner shall have no claim to compensation or damages, whether for loss of enjoyment or otherwise.

14. Where the Owner is to pay annually to the City the cost of energy, repairs and maintenance, such cost shall be paid in advance upon receipt of the City's invoice for such costs.

15. Subject to paragraph 6 hereof, this agreement shall enure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties hereto.

16. Words herein importing the singular number, or the masculine gender only, shall include more persons, parties or things of the same kind than one, and females as well as males, and the converse, and, unless the context requires a different meaning, words herein shall bear the same meaning as in the Encroachment By-law, aforesaid.

IN WITNESS WHEREOF the parties hereto have hereunto caused these presents to be executed under the hands of their proper officers duly authorized in that behalf as of the day and year first above written.

SEALED with the Corporate Seal of BRITISH COLUMBIA BUILDINGS CORPORATION and signed by:

M. J. Granum CORPORATE SECRETARY
M. J. GRANUM
R. Chubb

SEALED with the Common Seal of the CITY OF VANCOUVER and signed by:

JS *M. J. Granum*
Director of Legal Services

Approved by resolution of Vancouver City Council on January 11, 1977.

