

.....

MUSQUEAM INDIAN BAND TAXATION BY-LAW

SUPPLEMENTAL BY-LAW 2009

WHEREAS:

- A. The Band passed a Property Taxation By-law No. PR-1996-02, pursuant to section 83 of the *Indian Act* (the By-law as subsequently amended is hereafter referred to as the "Taxation By-law");
- B. Disputes have arisen regarding the assessment and taxation of interests in land on the Musqueam Reserve No. 2 (the "Reserve") held by residential lease-holders of land in the Reserve known as the Salish Park development (the "Salish Park Leaseholders");
- C. The discussions of the representatives of the First Nation and the representatives of the Salish Park Leaseholders have resulted in an Agreement in Principle dated September 1, 2008 to settle their disputes on the following terms, inter alia:
- (a) The Representatives of the Salish Park Leaseholders will recommend to the Salish Park Leaseholders that they withdraw the Appeals in the form of the Release attached as Schedule 1 to the Agreement in Principle and confirm their support for amendments to the Taxation By-law to implement a system of advance tax notices similar to that adopted by the City of Vancouver,
 - (b) Subject to the Council of the First Nation being satisfied that a sufficient number of Appellants have either signed Releases or had their appeals dismissed by the Board of Review (the "Minimum Number of Appellants):
 - (i) the Council will pass an amending by-law in the form attached as Schedule 2 to the Agreement in Principle (the "Amending By-law") that, without limiting the authority and discretion of the Council to take into account all relevant considerations in exercising its power and authority to impose and levy tax rates under the Taxation By-law, the Council shall:
 - (1) set residential tax rates that take into account the annual taxes that the leaseholders of property in the Reserve would have to pay under the method of property taxation used by the City of Vancouver from time to time based on an averaging of assessed values ("the City's Averaging") for those years in which the City's Averaging applies and
 - (2) provide a confirmation in the tax notice that the residential tax rate so set has taken into account the annual taxes that the leaseholders

of properties in the Reserve would have to pay under the City's Averaging; and

- (3) make available to any leaseholder, upon request, the calculation used by the Council in arriving at the residential tax rate in the current year provided that, in the absence of manifest error, the calculation used by the Council shall be deemed final and conclusive.

- (ii) The First Nation will agree to make payments to the Salish Park Leaseholders as provided in the Agreement in Principle;

D. This By-law to amend the Taxation By-law (the "Taxation Amendment By-law 2008") is passed by Council to implement the Settlement Agreement.

NOW BE IT RESOLVED:

1. Rates of Taxation

Without limiting the authority and discretion of the Council of the First Nation to take into account all relevant considerations in exercising its power to impose and levy tax rates under the Taxation By-law, the Council shall:

- (a) set residential tax rates that take into account the annual taxes that the leaseholders of properties in the Reserve would have to pay under the City's Averaging for those years in which the City's Averaging applies, and
- (b) provide a confirmation in the tax notice that the residential tax rate so set has taken into account the annual taxes that the leaseholders of properties in the Reserve would have to pay under the City's Averaging; and
- (c) make available to any leaseholder, upon request, the calculation used by the Council in arriving at the residential tax rate in the current year provided that, in the absence of manifest error, the calculation used by the Council shall be deemed final and conclusive.

2. Amendment or Repeal of this Taxation Amendment By-law

This Taxation Amendment By-law may only be amended or repealed if :

- (a) the Minister fails to approve this Taxation Amendment By-law within six months of its passage by Council or within such longer period as the Council and the Representatives of the Salish Park Leaseholders may agree; or
- (b) a board of review appointed under the Musqueam Property Assessment By-law or a court finds in favour of a taxpayer on the grounds set out in paragraph 1 in the form of the Release attached as Schedule 5 to the Settlement Agreement dated for

reference February 1, 2006 between the First Nation and representatives of the leaseholders ; or

- (c) it is replaced by another by-law made under the *Indian Act* in substantially the same form; or
- (d) the Representatives of the Salish Park Leaseholders consent to such amendment or repeal; or
- (e) if the Council has reasonable grounds to believe that, because of a ruling by a court, the Band can no longer rely on the decision of a board of review that an assessment appeal for the years 1997 through 2008 is to be considered withdrawn or rejected because of the failure of an appellant to respond in time to a notice from the board requiring the appellant to state whether he or she intends to proceed with the appeal.

3. By-law Interpretation

This Taxation Amendment By-law shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

4. Miscellaneous

- (a) Headings form no part of this Taxation Amendment By-law but shall be construed as being inserted for convenience of reference only.
- (b) A finding by a court of competent jurisdiction that a section or provision of this Taxation Amendment By-law is void or invalid shall not affect or bear upon the validity or invalidity of any other section or part of this By-law or this By-law as a whole.
- (c) Where a provision in this Taxation Amendment By-law is expressed in the present tense, future tense or in the past tense, the provision applies to the circumstances as they arise.
- (d) In this Taxation Amendment By-law words in the singular include the plural, and words in the plural include the singular.

5. Coming Into Force

This Taxation Amendment By-law shall come into force immediately upon being approved by the Minister.

THIS BY-LAW IS HEREBY ENACTED by Council at a duly convened meeting held on the 9th day of MARCH, 2009.

Mary Charles
Councillor MARY CHARLES

Councillor

Councillor

Councillor

Nolan Charles
Councillor NOLAN CHARLES

Chief
Howard E. Grant
Councillor HOWARD E. GRANT

Allyson Fraser
Councillor ALLYSON FRASER

Tammy Harkey
Councillor TAMMY HARKEY

Wendy Grant-John
Councillor WENDY GRANT-JOHN