

Day 2 Update

The hearing is open to the public and we had a good showing from our community on Day 2.

KPRA Argument

Today our lawyer continued her arguments in support of our Petition seeking to have the Senakw Services Agreement set aside.

Our argument was continued on the question of whether the approval of the Services Agreement and the subsequent meeting regarding agreement terms could lawfully be made in camera (in secret).

Further argument was made on the KPRA positions that:

- the Services Agreement, in particular the provisions regarding City enforcement of Squamish Nation Bylaws, is not authorized under the Vancouver Charter ,
- the City breached its duty of procedural fairness by failing to provide citizens an opportunity to be heard, and creating an expectation that there would be meaningful consultation at least on traffic and Vanier Park,
- the city unlawfully fettered its discretion by adopting the overriding policy for the negotiation that the Squamish Nation should be entitled to build as it sees fit, with no restrictions on the density, and that would be supported by the City with its services,
- the City acted in bad faith by telling City residents , among other things, that they had no jurisdiction to control the level of density of the development that they were supporting and that they had no jurisdiction to consult City residents, for the purpose of suppressing public comment and input, and
- the decision was unreasonable in that the City refused to consider and hear from City residents and failed to take into account relevant factors, such as impacts on the City and interests of citizens, in deciding not to negotiate the scope and

scale of the development.

City of Vancouver Argument

City of Vancouver started their argument in the afternoon with some surprising arguments from the point of view of their trying to assert reasonableness for their decision. Notably:

It was admitted that the City negotiations never focussed on size and density.

It was asserted that the Squamish Nation could have built the development without the services agreement by obtaining the services from Metro Vancouver or providing them themselves - that there is no evidence the Squamish Nation needed the Services Agreement. In the result, their argument was, there was no guarantee that the City could have effected a change on the development size and scale though negotiation of the Services Agreement, and the City did not want to get into a fight about density, and accordingly there was no point in engaging on that with the public through consultation.

The City recognized there would be unmet amenity needs resulting from the scale of the development, but thought the best way to engage with the First Nation on this was to negotiate a services agreement. This argument ignores the fact that it is the density enabled by the Services Agreement that creates the unmet amenity needs .

What happens from here?

City of Vancouver argument will continue on Thursday morning and will be followed by argument of the Squamish Nation.

After the argument of the Squamish Nation our counsel will have an opportunity for Reply. This will likely occur on Friday.

