

WILL NORTH VANCOUVER CITY RESIDENTS AFFECTED BY LOSS OF VIEWS FROM DEVELOPMENT PURSUE A CLASS-ACTION LAWSUIT TO GAIN COMPENSATION?

By Kerry Morris - January 19, 2016



Brent Toderian of Toderian Urban Works appears for developer SeaCliff Properties, CNV Council Meeting, Jan 18/15

'...I think we want to be clear, from our prospective, listening to the neighbours who are now partners in a way through the purchase, we've never considered the conditions to be unliveable or untenable. Frankly, if we did think that way then we wouldn't have ever supported the initial density. The conditions are inherently liveable. What was affected were the views...'

Said Toderian

So why should City taxpayers give a dam what Toderian thinks? Good question. The answer is; he has either caused your home or condo to double in value, or his comments have started in motion legal challenges that will eventually lead North Vancouver City to suffer the biggest legal losses in its history, and could even bankrupt the community! Do I have your attention now?

Toderian, who was retained by the City to help design

the density bonusing formula (the compensation payable to the City for a density bonus above current OCP and zoning bylaws) has now crossed the floor and is advocating on behalf of developers before City council. This brought him to lead a delegation on behalf of SeaCliff Properties and their partners, the residents of Moodyville, updating council in respect of design plans for the south east quadrant of the area, referred to as LoMo by the lead community proponents, Michael and Michelle Binkley.



The Binkley's, who went door to door with copies of scandalous and frequently untruthful materials during the election, asking City residents to support the Mayors 'Slate', appeared before council during public input period. Binkley read from a prepared statement which said in part: >> >> >>

'...Port Metro and its North Vancouver City tenants have destroyed lower Moodyville in terms of property value and liveability for us residents and our single family homes, that are the only ones in the City that do not have a buffer of commercial zoning...'

When Toderian took to the podium Pam Bookham asked:

"...I'm interested in how you are addressing the interface between the residential use and the Port, which essentially gave rise to this whole change... The existing homes took advantage of a water view and then they lost it progressively over time. The wall of silos is a huge huge issue and basically made life in that community unbearable for most. People who are prepared to sell to you feel that way because it was the silos. I don't think that painting the silos is a very good answer and I hope you have a better answer. And those trees that were cut down to accommodate the low level road that took away the green buffer have been lost. Are you going to put in landscaping with those spindly little 6' trees and just ask people to be patient while those trees grow?..." she said.

That's when Toderian openly admitted that, contrary to the statements made by Moodyville residents, and mouthed this night by Michael Binkley, while at the mic, Toderian made clear to council:

'...we've never considered the conditions [in Moodyville] to be unliveable or untenable. Frankly if we did think that way then we wouldn't have ever supported the initial density. The conditions are inherently liveable. What was affected were the views...' [emphasis added]

Ladies and gentlemen, the problem now is the underlying premise upon which Moodyville has received a massive increase in density, through the 'Slates' amended OCP. For the first time ever, and contrary to a long standing City policy, Moodyville residents are set to receive financial compensation for **'LOSS-OF-VIEW'** through the granting of density. And the value of this increased density for LoMo alone could reach \$42,000,000 (60 lots x \$700,000 per lot). This is something we said we would never do, and a precedent that will potentially lead to the payment of hundreds of millions of dollars in further compensation throughout the Lower and Central Lonsdale corridor. After all, why aren't others entitled to the compensation being meted out to Moodyville's residents?

Residents who stood one after the other throughout the OCP process, listening time and time again to City staff and councillors saying **'...we do not protect views or pay compensation for loss of view due to ever increasing density...'**, took the City at their word. But like so many other statement made by council and staff, these to were untrue. Moodyville properties,

historically the most affordable in the City, have typically sold at or near tax assessment values, which ranged from a low of \$650,000 to a high of \$800,000, with few if any above that value. But as a result of the City's massive uplift in zoning, 52 out of a total of 60 homes located in LoMo have already executed Conditional Sales Agreements (CSA's).

Thus the claim made by Toderian that Moodyville residents **"...are now partners in a way through the purchase..."**. The Moodyville partners have sold their homes under CSA's to SeaCliff at values ranging from \$1.4 to \$1.6 million, with several achieving even higher reward than that. Those **'...property values...'** which Binkley claims were **'...destroyed...'** have yield them and their neighbours upwards of a \$700,000 bonus over and above the assessments in affect when the grain silo's were built, and even those applicable to the lands at the time the deals were inked back in the summer and fall of 2015. This is the reason SeaCliff has compelled Moodyville residents to remain **'...partners...'**, at least until the up-zoning receives official City approval. Binkley's claims that the Moodyville property values have been destroyed are patently false, and the CSA's make that fact clear.

So what now? Well, there are many who will lose their views in lower Lonsdale, just as a result of the new Polygon tower, which is now planned for 'Site-8', between the Quay and Esplanade. Based on the City's actions in Moodyville, those property owners who live on Esplanade, and 1st and 2nd Streets, that suffer a loss of view, will all be entitled to compensation, and if they have their wits about them, they will call their lawyers and file a 'Class-Action' law suite against the City, demanding compensation equalling approximately 100% of current property values.

For the rest of the City's residents, those of us who will now be stuck with the bill for this folly, I would remind you all of the political cost of allowing candidates to make political promises using the taxpayer purse as leverage. The refusal of our provincial government to compel tougher 'Conflict-Of-Interest' laws applicable to political donors, effectively stopping candidates from trading development proposals for financial support during election season, needs to come to an end, for it is you the residents that will be stuck with the burden through the loss of CAC's. CAC's or Community Amenity Contributions are typically paid to the City in exchange for the density bonus, so we the taxpayers are really the ones footing the bill. Then again, we were dumb enough to vote these crooks in, so maybe it's appropriate we suffer the loss.

