

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

RICHARD NIEBUHR ENTERPRISES LTD. dba NIEBUHR CONSTRUCTION and
JAMES NIEBUHR WOODWORKS LTD. dba NIEBUHR CONSTRUCTION

PETITIONERS

AND:

VANCOUVER (CITY) BOARD OF VARIANCE

RESPONDENT

AFFIDAVIT

I, Donald Luxton, Heritage Consultant, with a residence at #720 – 1333 Hornby Street, in the City of Vancouver, in the Province of British Columbia, HEREBY MAKE OATH AND DEPOSE AS FOLLOWS:

1. I am President of Heritage Vancouver, author of several books about architecture and about heritage preservation, and a heritage advocate and consultant, with expertise in the historical significance of many buildings, structures, and landscapes located within the Vancouver area.
2. Attached hereto and marked as Exhibit “A” to this my affidavit is a copy of my *curriculum vitae*.
3. Heritage Vancouver, founded in 1991 and incorporated as a society in 1992, is a non-profit advocacy society whose mandate includes supporting the conservation of the

heritage that we have inherited, and collecting, documenting and preserving records of heritage structures, landscapes, and urban design. Heritage Vancouver is also active in identifying structures and landscapes with historic significance and advocating for their addition to the City of Vancouver Heritage Register.

4. One of the most significant contributions of Heritage Vancouver each year is to identify and advocate an annual Top Ten Endangered Sites list.
5. “Salsbury Garden” is included as number six on the list for 2006. (Attached hereto and marked as Exhibit “**B**” to this my affidavit are two pages from the Heritage Vancouver Web site, “Top Ten Endangered Sites for 2006”.)
6. The unique site, known in the neighbourhood as “Salsbury Garden,” is on the southwest corner of Napier Street and Salsbury Drive in the Grandview neighbourhood of Vancouver, one block east of Commercial Drive. It includes two historic B.C. Mills cottages (1117 and 1121 Salsbury) and an extraordinary heritage garden/forest.
7. The two houses document an important period in the city’s socio-economic history, serving as examples of the small, utilitarian workers’ cottages common in Vancouver’s early days.
8. The houses were built in 1907 and were probably the first houses built on this part of Salsbury Drive (between 1st Avenue and Venables). Modest cottages such as these are a fast-disappearing element of our historical record.
9. They are rare surviving examples of early pre-fabricated construction. These two cottages were assembled in 1907 from British Columbia Mills, Timber and Trading Company’s pre-fab kits. There are very few examples of the B.C. Mills houses remaining in Vancouver and, as such, these two have significant historical and architectural value and merit preservation.

10. Although the houses are rundown, some of their original fittings remain intact; neglect has acted as a form of preservation.
11. The two workers' cottages taken together with the 1908 B.C. Mills Presbyterian Church (now a Fijian temple and cultural centre), represent a significant portion of and the largest cluster of the remaining B.C. Mills inventory in Vancouver — three of as few as eight remaining structures.
12. What also makes the site significant is the close to 100-year-old garden, which presently occupies 60 per cent of the site. The garden was created by an unusual placement of the two B.C. Mills cottages. Builder and original owner, Charles Reid, divided the Salsbury parcel into five parts and put a B.C. Mills cottage on each of the two south-most parts deliberately preserving the three north-most parts as a garden occupying the corner of Salsbury and Napier, and framed on the west by 1760 Napier (the house Reid added in 1910).
13. Arthur W. Greenius, a Grandview dentist, bought all three lots and houses from Reid in 1918 and lived at 1760 Napier until he sold the properties in 1957. He remained committed to Reid's original vision for the garden. In addition to many roses, he planted unusual trees and shrubs, including cypresses, a butternut tree, and California spice bushes. The growth of the garden has continued undisturbed through the next 80+ years, even though Dr. Greenius was the last person to own the entire three-house property. The Salsbury property was sold separately from the 1760 Napier property in 1957, thus dividing up the Greenius estate.
14. The stories of people's lives intertwined in this "cluster" of homes and a church are significant: Arthur's daughter, Myrtle Greenius Maudsley and her husband were married in the Presbyterian Church in 1939, and later moved into 1117 Salsbury to have and raise a son and a daughter; meanwhile, Wilmer Greenius, Arthur's son, became a dentist and joined his father's practice in 1937. He and his wife were married, in 1939, at 1760 Napier Street (Wilmer's parents' home), and later moved

into 1121 Salsbury to have and raise two daughters. The cluster of the two side-by-side cottages, the garden, the church, and the house at 1760 Napier Street tells us a valuable story about early Vancouver that should not be lost.

15. Over the years, Heritage Vancouver has identified the Heritage Register itself as endangered. (Attached hereto and marked as Exhibit “C” to this my affidavit is Heritage Vancouver’s April/May 2005 newsletter “Vancouver’s Most Endangered Site.” This gives further detailed background on the Heritage Inventory and the Heritage Register.)
16. The Heritage Inventory/Heritage Register has been (and with its upgrade — see below, paragraphs 21–23 — can continue to be) the ‘bible’, for City staff and the public alike, for keeping tabs on and preserving our heritage. The Register assigns each building an A, B, or C category, according to four criteria: architectural, cultural/historical, and contextual value, and integrity. The City can then employ various heritage incentives to encourage owners to retain and rehabilitate buildings; these include the ability to relax zoning by-laws to permit more building area for an addition, to ease up on yard requirements, or to reduce the amount of required parking — all in an effort to make retaining the heritage building a more attractive option than demolition.
17. The City’s Heritage Register has never come close to capturing the reality of our heritage stock. It was incomplete from the start. In putting together the 1986 Register, resources (time and money) were so limited that the list was compiled from a “windshield survey” done by consultants driving street by street around the city. As well, it’s rumoured that a cap of 2500 was imposed on the total number of listings, that the City worried a complete listing would overwhelm heritage staff.
18. Neighbourhoods such as Grandview received particularly short shrift. For example, most (90%) of the 54 houses with addresses on Salsbury Drive between 1st Avenue and Venables were built before WWI; not one of these is on the Heritage Register.

19. The Salsbury Garden site with its two B.C. Mills cottages should be included on the Heritage Register. That is it not, is an illustration of the problems with how the Register was produced and how it has evolved.
20. As well, the 1986 Register, which focuses on individual buildings and architectural merit, has been woefully under-equipped to evaluate the significance of a configuration or landscape such as Salsbury Garden or to provide mechanisms for retention of such sites.
21. Heritage Vancouver notes that the City of Vancouver has recently acknowledged the shortcomings of the Heritage Register. On March 26, 2006, City Council officially acknowledged both that (1) the Heritage Register is in need of an upgrade, and that (2) many of Vancouver's heritage resources are not yet on the Register. (Attached hereto and marked as Exhibit "D" to this my affidavit are two City documents providing details of the Vancouver Heritage Register Upgrade Program.)
22. This statement is included in the recommendation to Council regarding the Upgrade Program: "An up-to-date Heritage Register, which better represents city and community heritage values, will significantly reduce the number of circumstances where buildings which are not on the Register but, after a process to redevelop begins, are found to have heritage merit."
23. This "Salsbury Garden" situation is just such a circumstance.
24. To recognize the importance of prefabricated housing in Canada and of B.C. Mills in particular, Canada Post issued a 45-cent stamp in 1998 showing a B.C. Mills house, floor plan, and promotional display. The goal of the stamp was to "evoke the social, environmental, cultural and technological contexts in which these homes were built." The Canada Post Historical Notice goes on to say, "Canada was an early leader both in the construction of homes from highly processed wood products, and in the advancement of prefabricated wood housing. The prefab homes introduced by the

British Columbia Mills, Timber and Trading Company of Vancouver [made a] significant contribution to the evolution of Canadian architecture. Prefabs existed before those of B.C. Mills, but these earlier efforts were flimsy and difficult to heat. ... Some of these dwellings still stand in Western Canada, mostly in the vicinity of Vancouver.” (Attached hereto and marked as Exhibit “E” to this my affidavit are a photocopy of the stamp and of the Canada Post information sheet pertaining to it from the Canadian Postal Archives Database.)

25. Throughout the twentieth century, Salsbury Garden had a special place and value within the community.

26. There is significant public support for preservation of the site.

27. In the opinion of Heritage Vancouver, the Salsbury houses and garden merit preservation and must be included on the updated Heritage Register.

28. Inclusion on the Register will allow the City to explore creative alternatives for the preservation of this unique resource.

SWORN BEFORE ME at Vancouver)
British Columbia, this xxth day of)
May, 2006)

A Commissioner for taking affidavits
for British Columbia

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