

Developer Richard Niebuhr says his company had no choice but to take the city to court because the Board of Variance ruling was "so out of left field." Photo by Dan Toulgoet

Unfriendly ruling riles Friends

By Mark Hasiuk-Staff Writer

Commercial Drive residents involved in a long running development battle say a recent court ruling may severely limit the ability of citizens to influence the development of their own neighbourhoods.

Last Thursday, B.C. Supreme Court Justice Richard Goepel overturned a Board of Variance decision that halted development at Salsbury Garden-a greenspace comprising three city lots at the southwest corner of Napier Street and Salsbury Drive-and paved the way for two new duplexes.

The ruling outraged the Friends of Salsbury Garden, a group of local residents and heritage site advocates that has fought to keep Niebuhr Construction, the owners of Salsbury Garden since February 2005, from redeveloping the site.

"The community has used this public space for decades," said Penny Street, who has lived next door to the site for the last nine years and represented the Friends of Salsbury Garden at the original Board of Variance hearing in August 2005. "It's a beautiful area with great big trees, and this community has always been chronically short of greenspace. It should remain the way it is because it has never been anything else."

Street said the court ruling should act as a wake-up call to Vancouver residents, who she believes are having their democratic rights trampled on by city politicians and big land developers. "It's bad news for us, but terrible news for any third-party group in the city who want their voices heard. I hope everyone takes notice of this."

Goepel ruled the city has misrepresented the Vancouver Charter by letting citizens appeal city planning decisions on land developments and construction projects. He further ruled property owners are the only parties allowed to engage in appeals.

Richard Niebuhr, the owner of Niebuhr Construction, said the decision was a victory for common sense and an indictment of the previous Board of Variance, the five members of which were fired during an NPA purge in July.

"This wasn't the only case where [the board] had to go to court, and the reason they were being taken to court was because of the inappropriate decisions they were making," he said, adding the case that led to Goepel's ruling was the first time his company had ever taken legal action. "We felt the Board of Variance was so out of left field that we had no choice."

Niebuhr dismissed the concerns of Street and her fellow lobbyists by pointing to his latest visit to Salsbury Garden. "I was there recently and I had a number of neighbours come up to me and say they were glad that we were there, and the feedback was positive."

Vision Vancouver Coun. Heather Deal was disturbed by the court ruling and will ask the city's legal staff to review the situation.

"In a city of neighbourhoods, every development should have input from the city, the developers and the citizens. If you take one of those voices out of the formula you have a skewed formula," she said.

"We need to find a way to change the charter or find a vehicle for citizens to have an opportunity for input."

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