

Submission by Jim Wright, 8300 Osgoode Drive, Richmond, to the public hearing on the ALR-exclusion of the Garden City Lands, 5555 No. 4 Road, Richmond, March 11, 2008

[OVERHEAD – logo. Ensure that overhead is working]

My name is Jim Wright. My address is 8300 Osgoode Drive, Richmond. I've been a Richmond resident for over 22 years, and my experience with Richmond agriculture goes back almost 50 years to summer employment as a young blueberry picker. I'm a director of the Garden City Lands Coalition, which is a Richmond community service group.

As one of the first presenters from the Richmond public after we were practically shut out yesterday, I will start with a quick summary of what this is all about.

[OVERHEAD – satellite view] The Garden City lands are *still* a 136-acre green area east of Garden City Road and north of Westminster Highway. I can tell you that for certain — because I was there for an hour or two this past Sunday enjoying what we still have.

[then OVERHEAD – looking north from lands]

This is what it looks like from a satellite, and this is what the scene is like from the Garden City Lands at earth level.



The federal government's Canada Lands Company and the Musqueam Indian Band, in agreement with the City of Richmond, want to turn much of the lands into mega-density development. However, that's **not allowed**, and they knew when they entered into the agreement that it was **not allowed**. It can only become allowed if B.C.'s Agricultural Land Commission excludes the lands from the Agricultural Land Reserve (ALR). The City was required by its agreements to recommend the exclusion. The City has *already met* that obligation. The application was submitted, and the Agricultural Land Commission **firmly rejected** it. The three parties are trying again, stopping at nothing to make the same

unacceptable application seem acceptable. Canada Lands Company is the **project manager** for the application, and the City **doing what it's told** by officially making the application.

The City got into a bad situation and has been making matters worse and worse. The project manager from Canada Lands Company calls the shots, and the City acts like an eager-to-please errand boy. But instead of getting errand-boy pay, the City is spending hundreds of **thousands** of dollars of taxpayers' money to help take the application to the Agricultural Land Commission.

[OVERHEAD – flyer]

This 4-page full-colour propaganda sheet [**WAVE It**], which was evidently sent to pretty much everyone in Richmond as a newspaper flyer, is just the latest example of the money that has been wasted to mislead the taxpayers at the taxpayers' expense. And, by the way, I'll explain later how it's propaganda.



But the hundreds of thousands of dollars, which would be a lot of money for me and most other citizens to waste, are just a drop in the bucket in the big picture. If the ALR-exclusion campaign gets the intended result, it will ultimately cost the Richmond taxpayers hundreds of **millions** of dollars. Not just hundreds of thousands. Hundreds of **millions**. And I will explain that later too.

But before I go on, I should explain one thing quickly. Canada Lands Company may not be a villain in all this. They are wholly owned by the federal government, and their main reason for existence is to sell the federal taxpayers' property and send the profits back to Ottawa. They are also supposed to show Community Social Responsibility, or CSR, which I hope they will be doing. In any case, Canada Lands is just doing part of its job by doing everything it can to get the lands out of the ALR for mega-density development that would increase the value of the land. To further increase the value, the ALR exclusion would then combine with the rezoning and subdivision planning that Canada Lands has a great deal of control over under the agreements.

I had better go into detail on that one point of the control that is available to Canada Lands Company and its Limited Partner, the Musqueam Indian Band, if and when the Garden City Lands are removed from the ALR. That level of control keeps being denied, even though it should be obvious to anyone who wants to see. I am going to refer here to the agreement of purchase and sale. **[WAVE IT.]**

[OVERHEAD – “acceptable rezoning from Agreement of Purchase and Sale]

On page 2, in 1.1a, “Acceptable Rezoning” is defined. It states that the bylaw amendment the City of Richmond will adopt for the Garden City Lands will be “based upon a Comprehensive Development Plan and other terms and conditions **approved by Richmond City Council and by CLC and the Limited Partnership. . .**” That definition is the keystone. Everything else builds on it, including the Rezoning Adoption Condition and Subdivision Approval Condition. They are conditions precedent, and the agreement repeatedly states that, if they are not met by the set date, “this Agreement will be null and void and of no further force or effect.” In other words, Canada Lands and its Limited Partner have what people have justifiably called *a veto*. (It doesn’t happen to be termed a veto in the agreements, but it has that effect.) That example is just one of several places in the agreement of purchase and sale where it is evident that Canada Lands and its limited partner have that degree of control.

Before I went into the issue of control a minute ago, I was stating that the increased value of the land from the ALR exclusion would combine with the increased value from rezoning. As far as I can tell, Canada Lands and its limited partner are only planning to take the Garden City Lands from the current status to a master plan and then sell their parcels to developers. The effect of the steps, which I view as steps toward successful **land speculation**, would be a profit of about \$50 million to \$100 million for each partner, if we go by Chief Ernest Campbell’s estimates. You can see that Canada Lands and its limited partner have a lot at stake in this ALR exclusion application, and almost all of it is dependent on the errand boy fetching the property from the ALR. If the lands don’t get out of the ALR, the reality is that they have ALR-land value. The reality is very simple, and I don’t understand why some council members have trouble with it.

[OVERHEAD – logo] Now I am opposed to the application first of all because I believe in retaining this ALR land in the ALR for ALR purposes but we also need to consider other aspects. One of them is the effect on the profits of Canada Lands and the Musqueam. The partners would like us to feel badly about it, and we've even been accused of trying to tear up the agreements, when in fact we want all parties to observe both the spirit and the letter of the agreements to the very end. In particular, we **do not** need to feel badly about Canada Lands and its limited partner not making a lot of money from their land speculation. They agreed to buy the land at its ALR value, and at minimum they will no doubt be able to get back what they paid, which was apparently \$5 million paid by Canada Lands. Making money by speculating on one's ability to get lands out of B.C.'s ALR is not some kind of civil right. Speculation is something that people do at their own risk, even though this particular kind of speculation was relatively risk-free.

- We can feel very happy, because the cost to us would be several times the speculation profit that Canada Lands and its limited partner might not get. As we will soon see.

Unlike Canada Lands, which is the project manager for this ALR exclusion campaign, many citizens want the Garden City Lands to retain ALR protection and benefit the **community** in diverse ways. In my view, the biggest obstacle is the city's non-preparation for likely scenarios, which could result in the City not being ready to grasp the opportunity to obtain the lands if the opportunity arises, and it **will** arise if the ALR-exclusion attempt meets with the failure that it very much deserves. I have made previous submissions to council imploring them to start preparing, just as I have implored council to provide citizens with more truthful and balanced information.

Although the City's lack of preparation for alternative scenarios therefore has to be a big concern for taxpayers, at this stage it **doesn't** have to be fatal. Furthermore, listening to the presenters at this public hearing will be a help. To become **open** to positive action, the city will first need to recognize that what the project manager and the consultants have stated in the application package is questionable. It's a massive pile of material, available to ALR-exclusion **opponents** only on the Web, and I can't be certain

what the main points are intended to be, but I will address what seem to me to be main points in the application. I will convert each one into a question.

[OVERHEAD] First question: **Would excluding the lands from the ALR meet a community need by reducing Richmond's parkland deficit?** No! And that is a resounding no. To do it justice, maybe I should shout it. **No, no, no, excluding the Garden City Lands from the ALR would not enable Richmond to reduce its parkland deficit.**

As background, I need to try to explain Richmond's two standards for parkland. This matter is not easy to grasp. After I finally figured it out, I checked with Councillor Harold Steves, and he confirmed that I have it right.

One of the two parkland standards applies to all of Richmond (including Richmond's City Centre) and the other applies only to Richmond's City Centre. On the projection screen, I hope you can read the chart.

[OVERHEAD]

Two Richmond standards for parkland acreage		
Per 1,000 residents		
Location of residents	Acres in Richmond	Acres in City Centre
Anywhere in Richmond	7.66 acres	
City Centre only	7.66 acres including	3.25 acres

Let's look at an example of how things could work out. In this example, we will suspend our disbelief and assume that the trade centre will be built, since the mayor said yesterday that Richmond has been forced to include it.

[OVERHEAD — Calculations showing “Acreage division”]

Remember that we are starting from 136 acres. The trade centre would use 20.4 acres, leaving 68 acres for development and 47.6 acres for park. As far as I know, the only detailed calculation of the population of the proposed Garden City Lands is what I have done on the Garden City Lands blog, and in this scenario my informed, fact-based, and calculated estimate is 12,000–14,500 residents of the development. For this purpose, I’ve decided to use the high end of my estimate so as to provide for adequate parkland, especially in view of the fact that the community benefit of the development was supposed to be parkland. If that’s the big goal we’re aiming for, let’s not shortchange ourselves.

[OVERHEAD — calculations for Richmond]

For 12,000 new residents, the bottom of the range, the City’s parkland standard would require an additional 92 acres for the added population. For 14,500 new residents, the number that we should prudently use, the city’s parkland standard would require an additional **111 acres** of parkland.

14.5 thousand — population added on Garden City Lands

X 7.66 acres of parkland somewhere in Richmond per thousand Richmond residents

111 acres required for the Garden City Lands population

If there is 47.6 acres of parkland left over from the development, the math is simple:

47.6 acres – 111 acres = -63.4 acres, a **parkland deficit of 63.4 acres** caused by the development

Now, while we’re at this, let’s consider the cost. With a little digging, I learned that it typically costs about \$2.5 million per acre to acquire Richmond parkland outside the City Centre. Actually, on the basis of the parkland purchases that were reported in the *Richmond News* yesterday, the \$2.5 million per acre estimate could easily be too low. In any case, the math is simple.

63.4 acres X \$2.5 million per acre = **\$158.5 million cost to Richmond taxpayers**

Let’s just think of that as a cost of about \$158 million.

And that is *in addition to* the City’s purchase price for any land it gets.

Before I move on, I just want to make a small point so that it won't be brought up later in a muddying way: The developers are required to dedicate a small amount of parkland space, which would add to the parkland acreage. However, the City is required to provide quite a lot of roadway, which would reduce its land available for park. The net effect is that the actual city land available for park on the Garden City Lands would be a little **less than** the 47.6 acres I've indicated, but that figure is close.

That said, let's get back to the \$158 million cost to Richmond taxpayers to make up for the parkland deficit on the Garden City Lands.

It's a lot of money, right?

Well, yes, it seems like a lot until you start to consider the value of the lost opportunity. If the Garden City Lands are **NOT** excluded from the ALR, then, if the City proceeds well, it should be possible for the lands to become an agricultural park, a unique kind of park for residents and tourists, much like Stanley Park in Vancouver but with an agricultural theme that is in keeping with Richmond's agricultural heritage and its citizens' environmental responsibility, particularly with regard to local food security. In that case, most or all of it would be **parkland**. As far as I can learn, all **136 acres** would count as parkland.

Now that would be **136 acres of new parkland in the City Centre**, and the "City Centre" aspect is extremely important.

[OVERHEAD of the same two-standards chart shown before]

Now, remember the **second** of the two overlapping park standards that I showed you on a chart earlier. It is for the number of acres of parkland **within** the City Centre per thousand residents **within** the City Centre. That new standard is 3.25 acres per thousand. Even with that low standard, the trouble is that it's almost impossible to provide any new parkland for the much more populous City Centre that is foreseen unless the City buys developed land at City Centre prices.

If you go home and use Google Earth to look down on the City Centre from a satellite, you'll notice that there's not a lot of green on the City Centre side of the Garden City

Lands. Until you get to Minoru Park, the City Centre is largely grey. It's concrete buildings and paving. So how would Richmond add new parkland in the City Centre for the planned larger population? It would be necessary to buy developed land, some of the grey area. Well, a Richmond citizen recently did some research into the 2008 assessed land value of the land under the new buildings near the Garden City Lands. Can you guess the average value per acre? It is \$6.5 million an acre.

What has happened is that the City has painted itself into a corner, and developing the Garden City Lands would only make the situation much worse. Some people have said that the Garden City Lands development would supply enough parkland for the development, using the City Centre standard. I agree. It would, and that is *all* it would do.

[OVERHEAD – parkland calculations for City Centre]

Realistically, in the example that I discussed earlier, the population of the development would be in the 12,000–14,500 range. Since new parkland can't be easily created if the population turns out to be higher in the range than the developers expect, we really need to think in terms of the higher end of the range to be somewhat safe. For 14,500 new residents, the park that is required **within the City Centre** would essentially fill the 47.6 acres that could be available in the example we considered earlier, which assumed the Trade Centre would be built.

[OVERHEAD – value of Garden City Lands for meeting City Centre parkland needs]

Now let's just focus on the long-term effect of that that second parkland standard, which applies only to minimum parkland **within the City Centre** for the **residents of the City Centre**. If the development **does not go ahead** and the Garden City Lands can become available for an agricultural park, then all 136 acres will eventually be useful for meeting the **City Centre** parkland standard. If the City has to buy up developed land for that purpose, it could cost \$6.5 million per acre. In fact, it could cost more, for the reason that Councillor Dang stated in the Richmond News when he explained why newly purchased parkland had cost almost one and half times its assessed value. However, some of the land the City could

buy might be less expensive, and I always prefer to understate, rather than overstate, so let's say that it would cost at least \$5 million an acre in today's dollars for the City to buy the City Centre parkland that it will need for the fast-growing City Centre population.

Let's do some math again:

136 acres X \$5 million per acre for City Centre parkland = **\$680 million**

It is entirely possible that the Garden City Lands can be saved as an agricultural park within the ALR, serving all kinds of great purposes. Having it serve as parkland for the population of the City Centre, as well as for the rest of Richmond and tourists, would save the Richmond taxpayers **\$680 million**, and that's in today's dollars. In future dollars it would probably save a lot more. If we go ahead and destroy our green Garden City Lands by dragging them out of the Agricultural Land Reserve and misusing them for megadensity development, the opportunity cost will be at least \$680 million. That's on top of the \$158 million cost to buy parkland to meet the basic Richmond standard for parkland for the increased Garden City Lands population.

Parkland cost effect of excluding the Garden City Lands from the ALR for development:

\$158 million for new park in Richmond for the development population

+ \$680 million opportunity cost, since the Lands could have been City Centre park

\$838 million parkland cost to Richmond taxpayers from ALR exclusion of Garden City Lands

*Or alternatively we can think of it as an **\$838 million parkland benefit** to Richmond taxpayers from arranging a park alternative within the ALR.*

There would be some cost for obtaining the parkland, so the actual benefit would be smaller, but it would be close enough to \$838 million. If we have to buy the land at its current ALR value, we should still be well over \$800 million ahead.

Now, some people will say that that we wouldn't really spend all that money, because we would instead have to lower our parkland standards and get by with a lot less park. And they may be right. But the cost will still be there in one form or another. If the cost isn't in dollars, it will be in the loss of green space, which is such an important part of our identity and which has so many values that we cherish.

[OVERHEAD – 1st question again]

Remember the question that we set out to answer:

Would excluding the lands from the ALR meet a community need by reducing Richmond's parkland deficit?

Now you can see why my answer is a very strong NO.

Let's move on, more briefly, to other questions based on the application to remove the Garden City Lands from the ALR.

[OVERHEAD – 2nd question]

Second question: Does the ALR exclusion meet a Musqueam Indian Band community need?

And the answer is Maybe.

The ALR-exclusion and city rezoning of the Garden City Lands might give the band a profit of around \$110 million on top of what it has received from the "Reconciliation Agreement" that Chief Ernest Campbell mentioned yesterday. But my question is this: *Why rip out the heart of Richmond in order to finance a payment to the Musqueam?* If there a reason why the federal government should transfer \$50 million to the Musqueam, then why not hand it over without the step of ripping out the heart of Richmond?

[OVERHEAD – 3rd question] Third question: Are the Garden City lands no good for farming?

And the answer is Be serious!

They are highly suited to the proposed uses. The evidence from people who've grown produce in similar Richmond soil is overwhelming. On top of that, agrologist Wendy Holm thoroughly proved it yesterday.

The application also says irrigation water would be too expensive, but it would be readily available from reservoir lakes on the lands.

[OVERHEAD – 4th question]

Fourth question: Does the ALR exclusion provide a net benefit for agriculture? And the answer is No way!

In fact, proposed ALR uses of the lands would yield a great benefit to urban agriculture.

That said, the agreement parties' endowment fund would be overdue support for Richmond agriculture. But why tie it to two parties returning bits of their rezoning profits? Much improved funding to sustain farming should come from the city's recent \$141 million windfall from selling Brighthouse Estates land. After all, a long-ago council bought it in order to ensure that Richmond *would always be green*.

[OVERHEAD – cover of B.C. Agriculture Plan]

Moreover, the exclusion of the Garden City Lands from the ALR would result in a major net loss to agriculture in the context of the provincial government's *British Columbia Agriculture Plan: Growing a Healthy Future for B.C. Families*. I was most fortunate to hear Agriculture Minister Pat Bell's speech to a recent breakfast meeting of the Richmond Farmers' Institute on the topic of the new plan. It's a terrific plan, overseen by a terrific minister. This is what the plan looks like in published form.



[Hold up the plan.]

Theme 1: Producing Local Food for a Changing World

Theme 2: Meeting Environmental and Climate Changes

Theme 3: Building Innovative and Profitable Family Business Practices

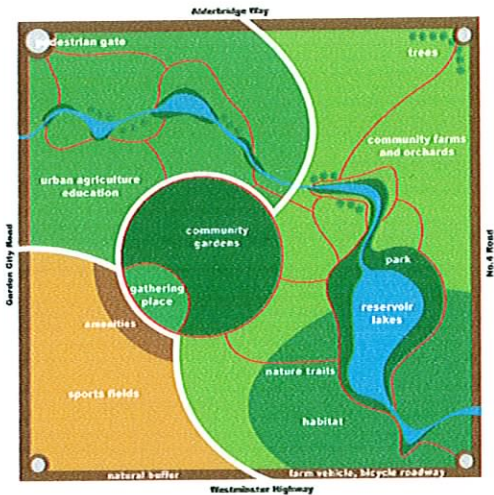
Theme 4: Building First Nations Agricultural Capability

Theme 5: Bridging the Urban/Agriculture Divide

[OVERHEAD – 5 themes]

And these are the five themes of the plan on the projection screen. You may see at a glance how they fit with the Garden City Lands. I think that will become even more obvious after I go through a new vision for the lands.

[OVERHEAD – The People’s Parklands map]



Richmond’s Garden City Lands Coalition has shown the citizens’ vision for the Lands in this new map. It is based on verbal feedback from the people who came to February open houses about the proposed development.

The coalition is a community group that wants to keep the Garden City Lands protected in the ALR, not used largely for high-density construction. Coalition members were present at the open houses to learn people’s opinions, and most visitors spoke to them.

Unlike some of the earlier visions for the Lands, the new map includes wetlands habitat, especially in the southeast corner where it has been best conserved. The coalition’s Olga Tkatcheva told me that “People usually started by saying they don’t want big buildings. They liked open green space.” Visitors wanted to keep space for native plants and wildlife, with peaceful trails.

Open house visitors also agreed with urban agriculture education within the park, and you can see it there in the northwest area. Shane McMillan told me this: “People were excited when I told them more about urban agriculture and the education aspect of a unique kind of park in the Richmond city centre.”

In a Kwantlen University College proposal that Richmond council has welcomed, urban agriculture faculty and students would interact with community farmers and gardeners. Coun. Harold Steves has said that “The Garden City lands are ideally suited for the Kwantlen project. There really isn’t any other place for it in Richmond.”

Open house visitors wanted a lot of community garden land, community farms and orchards, and places where people can come together. Some visitors made specific suggestions like “a quiet place by a lake for tai chi.” Well, there are lakes. Besides a quiet place for tai chi, they would provide drainage and irrigation for the Garden City Lands and beyond.

Fewer visitors wanted playing fields, but the new map includes them. Personally, I was cool to the idea at first, but on further thought it has advantages. It would require permission from the Agricultural Land Commission, but that should be possible in this context. I like the fact that it would bring a lot of sports people to the farmers’ market in the amenities area and to other aspects of the agricultural park.

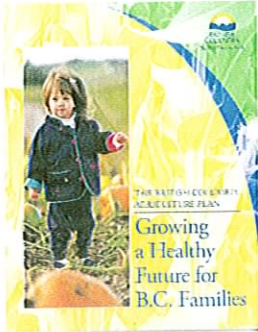
The map includes a Golden Village pedestrian gate in the northwest corner. Some people who came to the open houses noticed the tourism potential of the proposed park. And incidentally, my personal opinion is that the tourism potential is immense. Agri-tourism and eco-tourism are the fast-growing kinds of tourism.

There would be lots of trails. As a bit of a disclaimer, I should mention that some of the ones that are shown on this map are just lines that the artist put in to give a general impression. However, I can see trails like the one around the community gardens and the one around the lake being popular with walkers. When I’ve gone to the Minoru track to run, I’ve sometimes found so many walkers going around it that there wasn’t much room for running, so it’s easy to imagine a lot of walkers enjoying the opportunities at the new agricultural park.

By the way, the verbal feedback reinforces the results from the much-criticized survey connected with the Garden City Lands open houses, even though the survey assumed that park uses would occur on only **part** of the Lands. Despite respondents’ success in overcoming the survey’s bias, by nature the survey couldn’t capture the people’s vision for the whole Lands. The new map does.

[Linda Reid message] Richmond East MLA Linda Reid, along with MLAs Olga Illich and John Yap, had this message in the March 11 *Richmond News*. It’s on page 8. Our Richmond MLAs in the B.C. government have a vision for the Garden City Lands that is very compatible with what the people told us at the open houses.

So, in view of the Richmond citizens' vision for the Garden City parklands, let's go back to seeing how the Garden City Lands are so suitable for agriculture because they support the new five-theme *British Columbia Agriculture Plan* so well.



[OVERHEAD – 5 themes]

- Theme 1: Producing Local Food for a Changing World
- Theme 2: Meeting Environmental and Climate Changes
- Theme 3: Building Innovative and Profitable Family Business Practices
- Theme 4: Building First Nations Agricultural Capability
- Theme 5: Bridging the Urban/Agriculture Divide

Theme 1: Producing Local Food for a Changing World

Whether or not Richmond is “better in every way,” I think one would be hard-pressed to find many places with stronger local-food movements than Richmond is developing. The new agricultural park would take that even further and help us to promote it.

Theme 2: Meeting Environmental and Climate Changes

The proposed development would send the methane from the sphagnum of the Garden City Lands out into the atmosphere. Instead of being a carbon sink, the lands would become an emitter of the worst greenhouse gas. In contrast, if the proposed mega-density development is replaced by an alternative like the citizens' vision for the Garden City Lands, the farming and gardening would be **organic**. Gardeners would be able to **walk** to the community gardens from the dense City Centre, without having to drive. Even the sports fields would be closer for a lot of the users. That is a whole lot better than a development that would put many thousands of extra vehicles on the roads, making a traffic mess and sending off greenhouse gases and pollutants.

Theme 3: Building Innovative and Profitable Family Business Practices

That includes assisting the agriculture industry with human resources and new entrants. The Kwantlen University College Urban Agriculture Education proposal is a wonderful

concept, and you can find and read the proposal via the Garden City Lands blog site. It will certainly bring in new entrants into the agriculture field, and the community farms will be a place where some can start out.

Theme 4: Building First Nations Agricultural Capability

The potential is certainly there. It would be great if the Musqueam and other First Nations were to get involved. Besides being able to participate in the Kwantlen courses and community education, they could farm or garden on the lands. I should reiterate that an intent of the Kwantlen program is to interact with the people using the other parts of the agricultural park, especially the community gardeners and farmers, so First Nations people would have a lot of options to draw on to develop their skills. It's totally up to them, but I'm confident that the people of Richmond would welcome them.

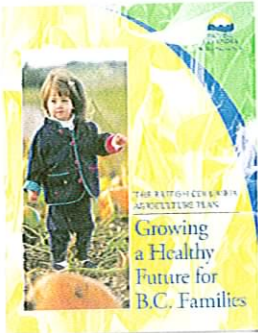
Theme 5: Bridging the Urban/Agriculture Divide

In Richmond, the agriculture community and the urban community are fairly separate even though they are geographically close. In the proposed new agricultural park, they could hardly be more integrated.

This theme includes increasing "awareness and interest in agriculture and food among B.C. youth." You can be sure that there would be a much larger version of the Terra Nova Schoolyard Project, and it is amazing what effect it can have to start young people on farming and gardening. I can attest to that from my own experience as a blueberry picker in Richmond, which is still influencing me almost half a century later.

[OVERHEAD – Fourth question again] For the past several minutes, I've been responding to this question related to the application: "**Does the ALR exclusion provide a net benefit for agriculture?**" It certainly does **not** provide a genuine net benefit even for Richmond, despite the attempt to buy the farmers' support for the development with the Agricultural Endowment Fund.

[OVERHEAD – plan cover again]



However, when one considers the **lost value** related to the lost opportunity to accomplish all those objectives of the new British Columbia Agriculture Plan, it is obvious that there would be an immense net loss for agriculture if the Garden City Lands are dragged out of the Agricultural Land Reserve and wasted on another mega-density development.

[OVERHEAD – Fifth question]

Let's move on to another point in the Canada Lands Company application that the City is proposing to take for them to the Agricultural Land Commission. The question is this:
Are the lands useless for food security?

As it happens, they are highly useful for that purpose. The lands could make Richmond a *world leader* in urban agriculture, with *much improved* food security.

[OVERHEAD – Sixth question]

This next question was prompted by all the verbiage in the application about Smart Growth. And by the way, it was Smart Growth with a capital G and a capital S. So it was definitely the use of the **term** Smart Growth, which is associated with the Smart Growth organizations. They are a network of related organizations like Smart Growth America, the Smart Growth Network, and Smart Growth B.C.



The question is this: **Is the proposed development “Smart Growth,” as the City claims?**

The reputable **Smart Growth B.C.**, following established Smart Growth principles, has made clear that it is **not**. The misuse of the term Smart Growth was so bad that Cheeying Ho, the executive director of Smart Growth B.C., felt that she had no choice but to ask the City to desist. **[OVERHEAD – letter from Cheeying Ho]**

In her letter to the Richmond Mayor and Council, Cheeying Ho said this, and I'm quoting, "The protection and enhancement of ALR land is **at the heart of every sustainable community**. Food-producing lands, whether they are currently being farmed or not, will continue to be an extremely valuable asset. As fuel and transportation costs rise, producing food in close proximity to current and future populations will be a food security issue for all citizens." The City has already rendered meaningless such terms as *green* and *sustainable*. Besides saving the Garden City Lands, let's also try to save the previously meaningful term *Smart Growth*.

[OVERHEAD – Seventh question]

Next question: **Should we fear what the Musqueam and Canada Lands will do if the commission rejects the ALR-exclusion application again?** The short answer is this:

Not if they're honourable. And we want to believe that they are.

Bear in mind that Canada Lands Company prides itself on its *corporate social responsibility*, CSR, and the Musqueam Indian Band has told us how *honourable* it is. One could question how honourable the City of Richmond has been in dealing with its own citizens on the Garden City Lands matter, but the City has gone far beyond what was required of it in the agreements to do everything that the project manager and its limited partner could possibly ask for. So the City should have earned immense goodwill, and the honourable partners will presumably reciprocate that goodwill.

Acting with goodwill, Canada Lands can enable the city to buy the property, using the City's right of first refusal, which is in an agreement the Musqueam also signed.

[OVERHEAD – Right of First Refusal from agreement of purchase and sale]

The Right of First Refusal is on pages 6 and 7 of Schedule C in the agreement of purchase and sale. It goes like this: “1.2. Right of First Refusal. CLC hereby grants the City a right of first refusal to acquire the Lands on the following terms and conditions.” Basically, “If, at any time . . . prior to the Discharge Date CLC proposes to sell or convey any interest in any portion of the Lands, CLC shall, prior to offering or agreeing to sell any Offered Interest to any other party,” give the City the right of first refusal.

I should point out that the definition that is provided for the word “Lands” makes it clear the word “Lands” refers to the *whole* Garden City Lands.

That ought to be the whole story, but some people may say something like this: “With something like \$110 million each at stake, maybe Canada Lands and the Band may find that there is room for flexibility—even in their Corporate Social Responsibility and honour. Human nature being what it is, we have to admit they would have a point. Canada Lands has already been saying that it might just offer the Lands to the Musqueam. Well, that’s why the City needs to have the best available lawyers to represent it. Yesterday, we discovered that we now finally have a lawyer, Keith Clark, in whom we can place our confidence on lands claims matters. Thank you, Phyllis Carlyle, for bringing him in.

We need equally good legal assistance on every aspect of the Garden City Lands dealings. That’s especially true because Canada Lands doesn’t have a strict responsibility to offer the lands to the City or anyone else in the obvious situation, which would be in the period between when either city council or the Agricultural Land Commission turns down the ALR-exclusion application (at the beginning) and December 31, 2008 (at the end). That is the date by which all conditions precedent in the agreements would normally have to be met. Although there’s no legal gun at its head, Canada Lands is pretty much obliged to make an offer to sell the Garden City Lands to the City *if* it is honourable *or* acting with corporate social responsibility *or* reciprocating the extreme level of goodwill that the City has shown toward Canada Lands and the Musqueam.

However, it's always possible that there will be a breakdown in corporate social responsibility, honour, and goodwill. If Canada Lands chooses not to make that offer of sale to the City, Canada Lands can't just offer to sell the property to the Musqueam Indian Band. What it can probably do is find ways to tear up the agreements. If they so choose, the Musqueam too can probably find ways to tear up the agreements, especially since they are in a position to hire the best lawyers, regardless of cost. We've had a chance to listen to their lawyer Jim Nichols, so we know how clever they are.

If the City does come up with the best *available* lawyers, they will need to go over the agreements as soon as possible, and certainly before the Agricultural Land Commission comes down with its decision if the application goes forward. Well, the big fear that is constantly being spread to scare the citizens is that the Musqueam will get the whole lands, so the City will probably ask about that. The lawyers will say something like this, and I'm putting myself in the lawyers' shoes now:

The Musqueam will not get all the land.

[OVERHEAD – MOU excerpts]

Since it will not be possible to meet some of the understandings stated in sections 1(22), 1(23), and 2(1) of the Memorandum of Understanding (MOU), the parties are required to follow the process that is stated in those sections. That is especially clear because the agreement of purchase and sale is explicit in Section 4.6 that nothing in the agreement will invalidate those provisions and that they "will continue to be **binding** upon the parties to the MOU, including the parties to this agreement." In other words, they continue to be **binding** on the **federal government**, City, Canada Lands, and Musqueam.

Section 1(22) of the MOU states the following: "Musqueam, CLC and the City will **meet to discuss the renegotiation** of any understandings, arrangements or agreements with respect to the Garden City Property in order to give effect to the spirit of this MOU to the extent possible, in the changed circumstances. If Musqueam and CLC are not satisfied with the outcome of these negotiations, they will have the option of terminating this MOU. . . . However before any of the understandings in this MOU may be terminated, the Parties will utilize the dispute resolution process described below."

The dispute resolution process is Section 2(1), which also continues to be binding. It includes the option of mediation by Bob Plecas if the parties are unable to resolve the dispute themselves.

Last, and definitely not least, notice the final part of Section 1(22), **“If any understandings in this MOU are terminated . . . the parties will cooperate in making whatever arrangements are necessary to restore each Party to the position that it was in prior to entering into this MOU.”**

At that point in time, the federal government was in the position of direct owner of the Garden City Lands, so the parties are required to cooperate to restore the federal government to that position. At that point in time, no other party was an owner of the Lands, and the parties are also required to restore the other parties to that position.

Before I go on with what the new lawyers would say, I also need to mention what Phyllis Carlyle has already said. Ms. Carlyle is the head of the City’s legal department, and she was questioned about the process at the Feb. 18 meeting of this council’s general purposes committee. In fewer words, she said what I’ve just envisioned the new lawyers saying about the requirements under the MOU.

I suggest that the new outside lawyers would then go on to say something like this:

We can see five possible scenarios for what happens in the period after the Agricultural Land Commission turns down the application:

[OVERHEAD – Five scenarios]

1. The City gets to use the right of first refusal that is in the agreement of purchase and sale. That is ideal because it is part of an agreement that the Musqueam have signed, and therefore they have already been consulted and accommodated. They would have no grounds for court action.
2. There is a renegotiated agreement, as permitted in what I just read to you. The City would have to pay at least the current ALR value of the 136 acres.
3. The negotiations fail and the federal government buys back the lands, since ultimately the parties have an obligation to cooperate to restore each Party to the position it was in prior to entering into the MOU, and the federal government’s position was that it owned the Garden City Lands.

4. The Musqueam find a way to tear up the agreements and resume their previous court action. Since the previous court action was an injunction to stop the transfer of the Garden City Lands from the federal government to Canada Lands Company CLC Limited, the effect of the court action would be that it would force the federal government to buy back the property from Canada Lands.
5. The federal government lets the Lands be put aside for a possible treaty settlement, which would occur decades down the road, if ever. In the meantime, the lands would only be able to be used for purposes that wouldn't limit future uses. The lands might have to be left the way they are or be used for farming or an agricultural park. In the long run, the Musqueam would be unlikely to obtain the lands in a treaty. One reason is simply that they would prefer money, since that is what they will be getting if the agreements don't have to be renegotiated.

The lawyers would then say something like this:

We believe that the Musqueam Indian Band will in fact be honourable, as it says it is. However, since you are worried, I can assure you that your Musqueam fears are unfounded. From a lands claims perspective, they are using scare tactics about what the city would lose and how much it would cost. They are using litigation as a business weapon, and the city should not give in to it.

However, I'm surprised that you haven't worked with the federal government to make sure that they will be supportive of you when the agreements reach the renegotiation stage. Canada Lands appears to have some power because the lands are currently their property. However, no municipal government in Canada will ever deal with Canada Lands again if they do not treat Richmond fairly. A company that shows it cannot be trusted can never be trusted. The federal government has most of the power since (a) the lands would ultimately go back to them if need be and (b) they fully own Canada Lands and can eliminate the company with ease if there is a good reason that the public would support.

Since late is better than never, you need to work with MP John Cummins to make arrangements with the federal government. In particular, ensure that there is a federal ministry that is ready to take on the administration and control of the Garden City Lands. That way the property will not be considered surplus, and consequently there will be nothing for the Musqueam to claim. The Department of Indian and Northern Affairs will not even be able to set the property aside for possible inclusion in a future land claim.

That's the end of what I would expect good lawyers to advise.

Finally, I said I would get back to this four-page propaganda flyer. [\[Flyer On overhead.\]](#)

It is **not** as misleading as the Richmond Community Survey and the open house feedback survey, which both used false statements at critical points. However, it is easier to show.

It appears to be an expensive brochure for a luxury upscale development, “Garden City Lands in Richmond’s City Centre.” That kind of brochure would typically show what the homes are like. However this propaganda flyer shows buildings that are nothing like the typical buildings. Out of the eight buildings that look as though they might be part of the development, only one has more than four levels. The other seven out of eight are all three or four levels, including parking. **[Show this.]** Even the City’s general manager of planning and development has said more than once that the buildings would be mid-rise, which means six to twelve storeys, and there would be at least one parking level as well. If the buildings would fit into the mid-rise category, most would be near the top of that range. In other words, the photos throughout the propaganda flyer provide a thoroughly false impression of what the buildings and development would be like. It’s just like the thoroughly irrelevant photos that a Canada Lands person went on and on showing us yesterday.

Furthermore, the display boards at the open houses misrepresented the development in the same way. In response to a question at the General Purposes Committee meeting leading up to this public hearing, I pointed out the problem. But the flyer went ahead anyway.

[OVERHEAD – Sunrise] When I got involved in this Garden City Lands issue, it was largely because I believe in the value of the ALR for our food security and could see the value of saving the Garden City Lands. However, an equally important aspect is the way our democracy has been curtailed by the use of taxpayers’ money to mislead the Richmond taxpayers. The lavish, misleading flyer is just one obvious example of that.

Let Canada Lands put forward the application if they want to, but the City should not do so. Start a new day for Richmond and especially a new day for the Garden City Lands.



And this final picture is just that. It is a sign of hope, a sunrise over the Garden City Lands.

Richmond needs a bright new day for the Garden City Lands.

Thank you.