



Form 35 (Rules 12-2(9) and 13-1(3))

No. S117498
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CITY OF VANCOUVER

PLAINTIFF

AND:

SEAN O'FLYNN-MAGEE, CELINA-MARIE WEBBER HAY, JANE DOE, JOHN DOE
AND OTHER UNKNOWN PERSONS

DEFENDANTS

ORDER MADE AFTER APPLICATION

*THE ASSOCIATE
/ CHIEF*

BEFORE THE HONOURABLE ~~MADAM~~)
JUSTICE MACKENZIE)

Wednesday, the 9th day
of November, 2011.

THE APPLICATION of the Plaintiff dated November 7, 2011, coming on for hearing at 800 Smithe Street, Vancouver, BC, on Tuesday, November 8 and Wednesday, November 9, 2011, and on hearing Ben Parkin, lawyer for the Plaintiff, and on hearing, Jason Gratl, lawyer for the Defendant, Sean O'Flynn-Magee, and upon hearing Michael J. McCubbin, lawyer, on behalf of the Defendant Celina-Marie Webber Hay;

THIS COURT ORDERS THAT:

The hearing of the application of the Plaintiff dated November 7, 2011 be adjourned to Wednesday, November 16, 2011 at 9:45 a.m.;

AND THIS COURT FURTHER ORDERS THAT:

The Defendants and all other persons having knowledge of this Order are to comply with any and all orders of the Fire Chief

future *SP* *HJM* *J* *Be*

AND THIS COURT FURTHER ORDERS THAT:

By 7:00 p.m. on November 9, 2011 the Defendants and all other persons having knowledge of this Order are to comply with paragraphs 6 and 7 of the order of the Fire Chief, dated November 3, 2011 and issued to Sean O'Flynn-Magee as a representative of Occupy Vancouver (the "Fire Order"), regarding the lands legally described as Block 51, District Lot 541, Plan 14423, Group I, New Westminster District (the "Art Gallery Lands")

AND THIS COURT FURTHER ORDERS THAT:

By 2:00 p.m. on November 10, 2011 the Defendants and all other persons having knowledge of this Order are to comply with paragraphs 1 through 5 of the Fire Order.

AND THIS COURT FURTHER ORDERS THAT:

As of Wednesday, November 9 at 7:00 p.m. the Fire Chief and all employees or agents of the City of Vancouver are hereby authorized to:

- a. Remove all open flame and/or flammable heat sources; and
- b. Remove all propane or other fuel sources;

from the Art Gallery Lands to obtain compliance with this Order, and any and all orders of the Fire Chief;

AND THIS COURT FURTHER ORDERS THAT:

As of Thursday, November 10, 2011 at 2:00 p.m. the Fire Chief and all employees or agents of the City of Vancouver are hereby authorized to:

- a. Remove all tarpaulin enclosures and overhead tarpaulins from tents;
- b. Provide, alter or improve a continuous path of travel to all individual tents within all tarpaulin structures;
- c. Identify for fire inspectors all tents that are occupied;
- d. Remove all unoccupied tents; and
- e. Provide spacing of 3 feet between tents to reduce/eliminate fire spread and smoke exposure;

on the Art Gallery Lands to obtain compliance with this Order, and any and all orders of the Fire Chief;

future
AL *BSA* *MSM*

AND THIS COURT FURTHER ORDERS THAT:

Any police officer with the Vancouver Police Department, or another municipal police force, or the RCMP, is hereby authorized to arrest and remove from the Art Gallery Lands any person who the police officer has reasonable and probable grounds to believe is interfering with or obstructing, or is attempting to interfere with or obstruct, the Fire Chief or any employee or agent of the City of Vancouver who is seeking to remove any structures, tents, shelters, objects and things, or take any other steps to obtain compliance with this Order;

AND THIS COURT FURTHER ORDERS THAT:

Notice of this Order may be given to the Defendants by posting of this Order on the Art Gallery Lands.

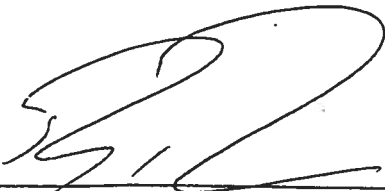
AND THIS COURT FURTHER ORDERS THAT:

Approval of the form of the Order by unrepresented Defendants is hereby dispensed with;

AND THIS COURT FURTHER ORDERS THAT:

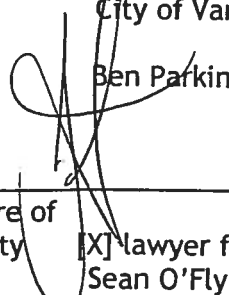
This Order shall remain in force until this matter is tried, or until further Order of this Honourable Court.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER:



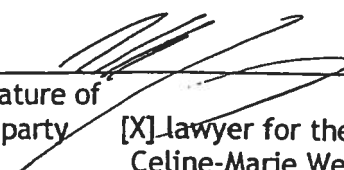
Signature of
 party lawyer for the Plaintiff
City of Vancouver

Ben Parkin



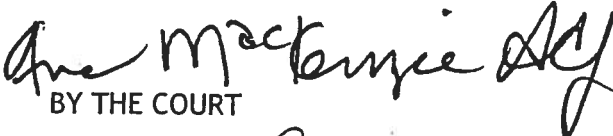
Signature of
 party lawyer for the Defendant
Sean O'Flynn-Magee


Jason Gratl



Signature of
 party lawyer for the Defendant
Celine-Marie Webber Hay

Michael McCubbin


BY THE COURT



REGISTRAR



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**SEAN O'FLYNN-MAGEE, JANE DOE, JOHN DOE
AND OTHER UNKNOWN PERSONS**

DEFENDANTS

ORDER

**Ben Parkin
CITY OF VANCOUVER - LAW DEPARTMENT
453 West 12th Avenue
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FILE NO.: 11-1505



John McKeamey, General Manager/Fire Chief
900 Heatley Avenue, Vancouver, BC
Ph: (604) 665-6000 - FAX: (604) 665-6016

Vancouver Fire & Rescue Services
Fire Prevention Division
#201-456 W. Broadway, Vancouver, BC
Ph: (604) 873-7595 - FAX: (604) 873-7872

ORDER
(PURSUANT TO VANCOUVER FIRE BY-LAW NO. 8191)

TO: **SEAN O'FLYNN - MAGEE**
As a Representative of Occupy Vancouver
Grounds of 750 Hornby Street
Vancouver, B.C.
V6Z 2H7

The premises	Occupied (Owned/Occupied)	by you to wit,	Assembly (Type of Occupancy)	
located at	750 Hornby St (Street Address)		Vancouver, B.C., legally known as	PLAN 15322, NEW WESTMINSTER LAND DISTRICT, BLKS 51 61 & 71 DL 541 PLN -14423 ASSESSMENT INCLUDES IMPROVEMENTS ON 026- 602-124-04 & 12 & 14 & 1-6 & 56 026-604-124-24 (EXC. LEASED) (Legal Description)
Inspected on the	03	day of	November	2011.

THE INSPECTION REVEALED THAT:

Vancouver Fire By-law, Sentence 1.4.4.1.(1) - It is the opinion of the *Fire Chief* a condition exists at 750 Hornby Street, Vancouver B.C. which endangers life and poses a risk of injury or loss by fire due to;

1. The lack of secure and safe means of egress and access ways within any large tarpaulin structure containing secondary tent structures.
2. The use of open flame and/or flammable heat source.
3. The storage and use of propane or other fuel sources.

THEREFORE, pursuant to the authority vested in me in accordance with Clauses 1.4.4.1.(1) and Article 1.4.4.2.(1)(d), 1.4.4.2.(1)(e), 1.4.4.2.(1)(f), 1.4.4.2.(1)(g) and 1.4.4.2.(1)(j) of Vancouver Fire By-law No. 8191, you are HEREBY ORDERED TO:

1. Remove all tarpaulin enclosures or erect overhead tarps as canopies providing full visibility and appropriate egress and access routes.
2. Provide, alter or improve a continuous path of travel to all individual tents within all tarpaulin structures.
3. Identify for Fire Safety Inspectors all tents that are occupied.
4. Remove all unoccupied tents.
5. Provide appropriate spacing between tents to reduce/eliminate fire spread and smoke exposure.
6. Remove all open flame and/or flammable heat sources.
7. Ensure no propane or other fuel sources are located on this site.
8. Comply with any other provision of Vancouver Fire Bylaw 8191.