

CITY OF BURNABY
BYLAW NO. 12641

A BYLAW to authorize a heritage revitalization
agreement for the John & Roseanna Clark House

WHEREAS Council has identified the John & Roseanna Clark House (hereinafter referred to as the “Heritage House”) located at 4115 Dundas Street, having the legal description:

Parcel Identifier: 003-009-734

Lot 33, Block 16, District Lot 187, Group 1, New Westminster District, Plan 1282

(hereinafter referred to as the “Lands”)

as a heritage property and has directed that the Heritage House be entered on the community heritage register as a protected heritage resource;

AND WHEREAS **BARBARA NANCY KUKAN and JOHN MATTHEW WENZ, both of 4115 Dundas Street, Burnaby, B.C.** are the registered owners as joint tenants of the Lands and have agreed to undertake measures to conserve the Heritage House in return for variation of the Burnaby Zoning Bylaw requirements to allow for the construction of a second floor sunroom by enclosing and reducing the size of an existing open balcony and the construction and use of a separate and self-contained dwelling unit in the basement of the Heritage House.

NOW THEREFORE the Council of the City of Burnaby ENACTS as follows:

1. This Bylaw may be cited as **BURNABY HERITAGE REVITALIZATION AGREEMENT BYLAW NO. 1, 2009.**

2. The City Clerk is authorized to execute on behalf of the City a heritage revitalization agreement in substantially the same form as that which is attached to and forms part of this Bylaw.

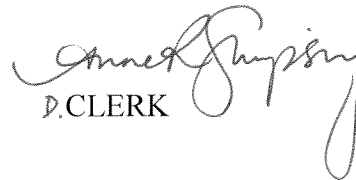
Read a first time this 11th day of May 2009

Read a second time this 15th day of June 2009

Read a third time this 22nd day of June 2009

Reconsidered and adopted this 22nd day of June 2009


MAYOR


D. CLERK

HERITAGE REVITALIZATION AGREEMENT

THIS AGREEMENT made the _____ day of _____, 2009.

BETWEEN:

BARBARA NANCY KUKAN, Retired
JOHN MATTHEW WENZ, Retired
4115 Dundas Street
Burnaby, B.C.
V5C 1A9,

AS JOINT TENANTS

(hereinafter called the "Owner")

OF THE FIRST PART

AND:

CITY OF BURNABY
4949 Canada Way
Burnaby, B.C. V5G 1M2

(hereinafter called the "City")

OF THE SECOND PART

WHEREAS:

A. The Owner is the registered owner of all and singular those certain parcels or tracts of land and premises situate in the City of Burnaby in the Province of British Columbia, legally described as:

Parcel Identifier: 003-009-734
Lot 33, Block 16, District Lot 187, Group 1,
New Westminster District, Plan 1282

(hereinafter called the "Lands");

B. The residential building known as the "John & Roseanna Clark House" situated on the Lands (hereinafter called the "Heritage House") has, in the opinion of City Council, sufficient heritage value to justify its conservation and the Heritage House has been entered on the City of Burnaby Heritage Register as a protected heritage resource;

C. The Owner wishes to undertake the construction of a second floor sunroom by enclosing and reducing the size of an existing open balcony and the construction and use of a self-contained secondary suite in the basement of the Heritage House that will require variation of certain provisions of Burnaby Zoning Bylaw 1965;

NOW THIS AGREEMENT WITNESSETH that in consideration of Ten (\$10.00) Dollars now paid by the City to the Owner and for other good and valuable consideration (the receipt and sufficiency of which the Owner hereby acknowledges) the Owner and the City each covenant with the other pursuant to section 966 of the *Local Government Act* as follows:

1. The Owner agrees to preserve and protect the Heritage House, keeping and maintaining it in good repair and in good appearance, and to undertake measures necessary to conserve the Heritage House.
2. The Owner agrees that no further works will be done or permitted to be done that would alter the appearance of the Heritage House unless such works have first been approved in writing by the City.
3. The Owner agrees to the designation by bylaw of the property and the Heritage House as a City heritage site.
4. The City agrees to vary the provisions of the Burnaby Zoning Bylaw to the following extent:
 - (a) the Owner may develop and construct a second floor sunroom by enclosing and reducing the size of an existing open balcony and may construct a self-contained secondary suite in the basement of the Heritage House, in compliance with the City's Building Bylaw, Electrical Bylaw, Plumbing Bylaw and other bylaws related and applicable to such construction;
 - (b) the use and occupation of the basement suite as a secondary suite for rental purposes will be permitted.
5. The Owner agrees to undertake the ongoing maintenance and care of the Heritage House to ensure its ongoing good condition and appearance as directed by the City.

6. The Owner agrees that the Owner shall pay all legal costs and other expenses incurred by the City in any action to enforce this Agreement.
7. Notice of this Heritage Revitalization Agreement and the Heritage Designation Bylaw will be filed in the Land Title Office.
8. This Agreement shall enure to the benefit of and be binding upon the Owner and their successors and assigns and the City and its successors and assigns and shall charge and run with the Lands and enure to the benefit of and be binding upon the owners from time to time of the Lands and all parties claiming through such owners and their respective heirs, executors, administrators, trustees and successors.
9. Wherever the singular or masculine are used in this Agreement, they shall be construed as meaning the plural or feminine or body corporate where the context or the parties hereto so require.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective duly authorized representatives as of the day and year first above written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Sign and Print Name:

BARBARA NANCY KUKAN

Address:

JOHN MATTHEW WENZ

Occupation:

(as to both signatures)

THE CORPORATE SEAL OF THE **CITY
OF BURNABY** was hereunto affixed by its
authorized signatory:

Authorized Signatory