

Settling the Townsite: Comparing the CPR's early development of Vancouver with the City of Vancouver's development of the Athlete's Village.

In my paper I intend to critically examine the conventional wisdom surrounding the question of who should be responsible for overseeing and implementing metropolitan development. Conventional wisdom suggests that private enterprise acting alone is ill-suited to the task of developing something as complex as a city. The sustaining rationale for this belief is that the profit motive encourages private enterprise to maximize only those facets of property which may increase the market value of property<sup>1</sup>, thereby ignoring the development of other non-monetized, yet still socially valuable facets of property. Public development<sup>2</sup> of metropolitan areas in contrast is generally viewed as the only means by which these non-monetized, socially valuable facets of property are adequately accounted for.

In this paper, I hope to explore this conventional wisdom by examining two periods in Vancouver's history, the early development of the city (1885-1892) that was largely led by the CPR and the recent development of the Athlete's Village on False Creek (2002-2010) led by the City of Vancouver. In performing this examination, I hope to reveal the shortcomings of an emulsified ideology of civic development that continues to promote a particularly pejorative view of private enterprise's ability to develop urban space. At the same time, I seek to challenge the wisdom of some property law scholars who, in my opinion, are too quick to place faith in the power of publicly formulated regulations to foster the type of development and imagined set of property relations considered most beneficial for society.

1. The CPR and Vancouver

The early history of Vancouver is tied up very closely with the CPR. As the largest landholder in the newly established City of Vancouver, the CPR essentially became in many ways, a *de facto* government for the City of Vancouver. For instance, Lauchlan Hamilton, the CPR's surveyor and land commissioner, was responsible for designing and naming the street system, both on the downtown peninsula and South of False Creek in the CPR's larger holdings. Similarly, decisions made by the CPR as to where it would locate its terminal, roundhouse and employee lodgings performed a prototypical zoning function<sup>3</sup>. As the area's largest employer, the CPR also was the first organization to provide medical services, first by making the company physician available for public consultation and second through its construction of the first hospital in the city. The provision of these services illuminate, in my opinion, that the CPR was undoubtedly a *government-like* private enterprise.

The most important facet of the CPR's role as a quasi-government lies in its approach to the development and sale of its land. Two important points reveal that the CPR, while fixed upon the profit motive, did develop their lands in ways which benefited the City at large. The first point to note is the stringent purchase requirements the CPR placed upon buyers of real estate. Buyers were required to place one third of the purchase price down as a down payment, provide one third of the price in six months and the remainder within a year. These purchase requirements clearly were intended to deter speculation by tying up large amounts of purchaser's credit. To further buttress these anti-speculation

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<sup>1</sup> This drive to maximize market values by private enterprise is generally viewed as a short run operation which neglects long run values – i.e. private enterprise is only out for 'a quick buck'.

<sup>2</sup> By "public development" I mean government-led and organized.

<sup>3</sup> It was not until 1914 that municipalities in BC were even granted zoning power.

measures, the CPR also offered discounts of 20-30% on a purchase price where the purchaser constructed a building on the land, thereby further incentivizing development as opposed to speculation. I believe it poignant to note that the City of Vancouver's commitment to low property taxes during this period would have had the opposite effect and promoted speculation in land by minimizing the financial burden on temporary land holders.

The second point to note is that due to its relatively gargantuan land holdings, the CPR was itself incentivized to maximize the value of the entire city in the long run. Consequently, the CPR invested heavily in the preparation of its lands for sale and attempted to create neighbourhoods, a fact most evident in the CPR's costly and extended development and preparation of the Shaughnessy Heights neighbourhood.

## 2. The City of Vancouver and the Athletes' Village

In 2003, Vancouver was chosen as the host city for the 2010 Winter Olympics, requiring massive construction of facilities throughout the Lower Mainland and in Whistler. Most of this construction was managed and controlled by VANOC. The Athletes' Village however, was not constructed by VANOC, rather, the City of Vancouver decided that it would itself develop the site under an agreement reached with VANOC in 2002. The City's reason for choosing to complete the development itself followed largely from the City wanting to get in on what, at the time, appeared to be an opportunity for the City to make a fortune developing its own real estate.

The City's dream of making a fortune has of course since that time, notoriously soured. The key reason for the City's failure lies in the City's decision to lease the land to the chosen developer (Millennium), rather than sell the land outright to the developer. The consequence of this decision to lease the land was that Millennium had difficulty securing financing for the project, being unable to receive a conventional mortgage backed by title to the land as security for a loan. As a result, Millennium ended up securing financing from a New York hedge fund (an unconventional lender), which in turn, extracted onerous conditions from both Millennium and the City in exchange for financing. Later, when the hedge fund was forced to stop its lending activities due to the global economic crisis, the City was forced to bail out Millennium. This circumstance alone, some have argued, led to the ouster of the governing NPA from city hall in the 2009 municipal election.

## 3. The significance of property

In our course we have focused intently on the justifications for property and the ideological divide between scholars who favour either private or public property. In my opinion, these two case studies provide useful evidence to engage with some of these theoretical claims made about property and who ought to be responsible for its development. In particular, I see a conflict between the views of Charles Reich and those of Morris Cohen, who appear to be on opposing sides of the fence when it comes to which form of property ought to be restrained, with Reich favouring the restraint of government and Cohen favouring the restraint of private interests.

Another scholarly view relevant to this enquiry is that espoused by Joseph Singer and his colleagues who advocate what I see as an increasingly complex imagining of property. I am interested to see how the development of efforts of both the CPR and of the City of Vancouver gel with these scholar's democratic model of property.