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## Peter Kenward

Partner - Retired

Municipal Law

Commercial Real Estate

### Profile

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Vancouver is a real estate city, and how land is used, developed and conserved here has dramatic implications for the economy, quality of life and our future. Given the important physical constraints on land use (mountains, oceans and rivers as well as the US border) and other equally important policy and practical constraints (policies and regulations related to planning, zoning and development, the preservation of agricultural land and fish habitat and ensuring viability for the port economy and transit), the limited physical space that is available for growth and development is subject to a myriad of rules and regulations. Different but related land use and development considerations apply in many other areas of the province.

Having practiced in this area for close to 35 years, first for local governments and subsequently primarily for private sector clients, Peter advises and represents our clients in their dealings with municipalities and other authorities as those clients navigate, or are confronted with, regulatory regimes in pursuit of their land use, business and other objectives.

### Work Highlights

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#### Matthew Southwest Bethel

> Negotiate a 20-year Phased Development Agreement, together with a Development Cost Charge Front

Ender Agreement, a zoning bylaw amendment, official community plan bylaw amendment and numerous other agreements, in the context of a community transforming development on Squamish waterfront, comprising 1,136 residential units and more than 2 million square feet of residential, commercial and industrial development. Bylaws are adopted September 2015, with Provincial approval for 20 year PDA term

### **Brenhill Developments Ltd.**

> Secure an expedited Court of Appeal hearing to facilitate the reversal of a BC Supreme Court decision that had invalidated a development permit approval and a rezoning bylaw, and which had thereby halted a 13-storey 162-unit amenity social housing building in the Yaletown neighbourhood of Vancouver that was already well under construction, and put at risk the 36-storey 448 residential unit building in close proximity. Court of Appeal reverses the lower court decision, with leave to the Supreme Court of Canada refused

### **Century Group Lands Corp.**

> Negotiate a 20-year Phased Development Agreement, and rezoning and official community plan bylaw amendments, and a precinct subdivision, to allow 950 residential units, a substantial market square and commercial uses in the formerly contentious "Southlands" area in Delta. Bylaws are adopted July 2016, with Provincial approval for 20 year PDA term

> Negotiate a consent by TransLink under a statutory right of way of a mixed-use project comprising 349 condominium units, a 144 suite world-class boutique hotel, 5 floors of office and additional retail space in proximity to a transit line in Surrey

*Additional work highlights below*

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Clients rely on Peter to successfully negotiate with local government and provincial representatives regarding land use, environmental, expropriation and business regulation issues. They also rely on him to litigate where disputes arise over how regulatory regimes are intended to work, regarding particular decisions made under those regimes, or where a third party has launched a court challenge to an approval.

### **Services**

- > Negotiation of agreements, including phased development agreements
- > Advice regarding legal aspects of land use and development and other related regulations
- > Compliance issues re environmental, expropriation, land reserve and other matters
- > Litigating the scope of regulatory powers, and the validity or otherwise of approval decisions

Peter's experience as both a solicitor and a litigator assists him in addressing a myriad of land use and political issues with a sense of how the courts are likely to approach the issues that arise, which can assist with getting transactions done in a fashion that is more efficient and more legally defensible. It can also assist Peter in better explaining to a court the context and implications, where a dispute arises.

Peter has been a frequent contributor to regulatory initiatives. Examples include:

- > As a member of the Urban Development Institute's Board of Directors for 10 years, commenting to the province various regulatory issues related to land use and development
- > Representing a large coalition of BC businesses (Business Council, BC Chamber, UDI, tourism, mining, truckers, hotels, agriculture, etc.) in providing comments to the province regarding the scope of local government powers under the Community Charter, to better

reflect private sector interests and concerns

- > Representing a similar coalition of BC business in commenting on the legal aspects of the interplay between municipal and regional district interests, relative to regional growth strategies
- > Advancing the creation of legislation authorizing 'phased development agreements' to allow local governments and private sector parties to make more sophisticated agreements regarding their commitments over extended time periods
- > Representing private sector interests on the Province's Development Finance Review Committee

In representing property owners, businesses, developers, First Nations, environmental consultants and civic officials, Peter recognizes the role that all stakeholders play in creating our communities and advancing our economy as well as social and environmental interests. He is gratified to play a part in helping clients make Metro Vancouver and British Columbia the livable and thriving place it has grown into.

Peter is also a past longtime distress services volunteer, Board member and Chair of the Board of Directors of the Vancouver Crisis Centre; has made three trips to Kenya/Tanzania with non-profit organizations, to expand their donor base, build a school and assist other projects; is a founding member of Dignitas International's Pivot Group; and volunteers from time to time on Vancouver's downtown east side.

## Credentials

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### Awards & Distinctions

- > Best Lawyers in Canada, Municipal Law, since 2006
- > Canadian Legal Lexpert Directory on numerous occasions

### Industry Involvement

- > Board of Directors, Urban Development Institute (Pacific Region)
- > Past Chairman, National Municipal Law Section of the Canadian Bar Association
- > Past Chairman, Municipal Law Section, Canadian Bar Association, BC Branch

### Community Commitments

- > Past Chair, Board of Directors, Vancouver Crisis Intervention and Suicide Prevention Centre

### Education & Call to Bar

- > Call to Bar: British Columbia, 1982
- > Bachelor of Laws, University of British Columbia, 1981
- > Bachelor of Commerce, University of British Columbia, 1979

## Additional Work Highlights

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### Cadillac Fairview

- > Provide advice regarding issues related to development permit and zoning approvals, for

projects such as the Nordstrom site at Granville and Georgia, and the 27 storey Station Waterfront Tower Transportation Hub office site on Cordova Street in Vancouver

### **Wall Development**

> Represent the private land owner in the first piece of litigation related to dividing the respective jurisdiction of municipalities and the GVRD, and the impact of same on owners of lands impacted by Regional Growth Strategy legislation. The defense of the local government bylaws resulting from the land owner's application was successful both at BC Supreme Court and the Court of Appeal in 2014

### **Island Wolf Properties Ltd**

> Negotiations regarding a 20-year Phased Development Agreement for a 726 acre Town Centre in Nanaimo, in conjunction with zoning for a master planned community consisting of retail, residential, industrial, educational and recreational uses

### **Omnimark Properties Inc.**

> Advise client regarding implementation issues related to a Phased Development Agreement and related cost sharing agreements and a subdivision in the Rogers Creek area of West Vancouver, related to 37 single family lots, a cluster housing site and a condominium site

### **Vancouver Ready Mix Inc.**

> Represent a ready mix concrete business in response to zoning and business licence bylaw enforcement proceedings that could have impacted the continuance of the business at its home site in Langley. Municipal enforcement proceeding dismissed in June 2015

### **Windsor Building Supplies Ltd.**

> Represent a major retail chain in a compensation proceeding related to the expropriation of the distribution centre that is the heart of the company's operations, providing inventory, accounting, marketing and other supply operations to 69 stores across western Canada and the northwestern US. Claims included business losses and changeover costs related to a move to a new facility in Langley. Compensation litigation settled in September 2014

### **Coalitions of organizations representing a wide range of sectors of BC business**

> Making representations to the Province regarding the terms of the Community Charter, and of legislation and regulations related to multi-phase development and other special topic legislation

### **Other property owners and developers**

> Negotiating with the Province relating to regional growth management, grandparenting, boundary extensions, bylaw approvals, and validating legislation

> Advising regarding options for land use and development, and strategies for accommodating community concerns

> Defending challenges to official community plan and zoning bylaw approvals, including as regards a high technology business park and big box retail developments

> Litigating to overcome subdivision refusals, or unlawful preconditions to approval

> Applications to remove lands from the Agricultural Land Reserve or to allow non-farm uses

- > Advancing and negotiating expropriation claims
- > Obtaining and enforcing an injunction to remove protestors from lands undergoing development
- > Litigating to set aside the designation of properties for a provincial highway
- > Public-private partnership transactions, and major golf course and resort proposals
- > Renegotiating a land use contract in respect of a substantial residential project

### **Industry**

- > Conducting environmental compliance reviews
- > Negotiating with the Waste Management Branch regarding development approvals on contaminated sites
  
- > Appearing before the Environmental Appeal Board defending a permit appeal regarding the human health and environmental implications of a discharge into a creek, together with the defence of associated applications including an application for a stay of the permit

### **Local governments and local government officials**

- > Litigating on an appeal to Cabinet in connection with a regional bylaw imposing substantial financial obligations on the local government
- > Advising regarding alleged conflicts of interest

### **An environmental consultant**

- > Contract issues, environmental advice and claims defence