

Statement of Rep. Harry Day in Support of LR27.112— Purchase of 1 Whittaker Place

September 30, 2009

I strongly urge my fellow members of the Fiscal Committee to support the proposed acquisition by the City of 1 Whittaker Place (the so-called “Nojima property”). The property is critical to the viability of the Mill River Park, and the purchase price of \$1.2 million is reasonable.

Board of Finance members Tarzia and Kolenberg have submitted a letter opposing this transaction, accompanied by appraisals and other information in support of their position that the property is worth only approximately \$400,000. I respectfully but strongly disagree with their analysis and conclusion. Please consider the following:

1. The appraisals procured by Mr. Kolenberg are “AS IS” (based on the property’s existing use and the sale prices of “comparable” properties elsewhere in the City) rather than “highest and best use”, which is the correct standard in this case (because it is the one that would be legally required in the event of eminent domain). The highest and best use for the Nojima property is not one two-family dwelling, but rather at least 5 (and quite probably 6) units, surrounded by parkland. The appraisals furnished by Mr. Kolenberg are therefore not relevant.
2. Much better “comps” for the Nojima property are to be found in the numerous and recent purchases of multifamily properties nearby to the south, within the Mill River Corridor, by RBS. Most of these were lots of 5,000 square feet—less than half the area of the almost 12,000 square-foot Nojima property—and the median purchase price of these properties was \$1.7 million.
3. The City tax appraisal cited by Messrs. Tarzia and Kolenberg is not relevant, because it is based on the property’s existing use rather than its development value.
4. The sale price of the property in 2004 has no probative value because the sale was not an “arms length transaction” but rather to a related party—Mr. Nojima’s stepson.
5. The City’s September 2008 appraisal cannot fairly be characterized as “outdated”, given recent land transactions in the Mill River Corridor, and in any event must be viewed in the proper context, as noted below.

It is important to understand that the purchase price of \$1.2 million was negotiated over a protracted period in the context of a “land assemblage”, and therefore did not involve an equally willing seller and buyer. In this context, properties are rarely acquired at the appraised value. History and other circumstances must enter the picture.

In this case, the seller has not shown any urgency or motivation whatsoever to sell and has made clear that he is perfectly content to continue owning the property well into the future. The seller originally wanted \$1.6 million, and in January 2008, entered into a contract with Richard Kiley to sell the property for \$1.25 million, which was voided when Kiley's development plan did not go forward. Given these circumstances, the purchase price, in my opinion, is realistic and in line with the City's one-year old appraisal.

The value of the Nojima property cannot be viewed independently of the Archstone transaction, which everyone agrees has a benefit of several million dollars to the City. Rather, these two purchases must be analyzed together, as a property assemblage. Taken *together*, we have the extraordinary once-in-a-lifetime opportunity to acquire these parcels at half their combined appraised value.

If we decide instead not to purchase the Nojima property at the negotiated price, we will be left with the eminent domain option, which is most assuredly an unpalatable alternative. Given the Nojima family's legacy and their special place in our City's history, eminent domain would be a public relations disaster for the City; moreover, it will be extremely expensive to pursue, will result in years of costly delays in the completion of the Park, and unquestionably result in far higher overall costs than the transaction we have before us now. Taking this course would be an enormous mistake and ultimately would reflect harshly on those responsible.

In the last analysis, the true measure for this property is its value to the City in achieving our objectives for the Mill River Park in the most expeditious and cost-effective manner. I sincerely hope the Committee approves the proposed purchase.

Respectfully submitted,

Harry Day