

May 14, 2017

Via email

Nicolas M. Rouleau Professional Corporation
720 Brock Ave.
Toronto, Ontario
MH6 3P2

Attention: Nicolas Rouleau

Dear Sir:

Re: *Response of the Conseil scolaire francophone de la Colombie-Britannique ("Conseil") to a request for update regarding the resolution of matters following the Parents' Petition in Vancouver west of Main Street*

I write in my capacity as Chairperson of the board of trustees of the Conseil, in response to your letters of April 11 and May 11, 2017 requesting an update on the situation regarding French-language elementary school instruction in Vancouver, west of Main Street and requesting information regarding the Conseil's announcement of May 3, 2017 regarding the temporary lease of Henderson Annex. I ask that you direct or address any responses to this letter not to me, but to the Conseil's lawyer, Mark Power.

The last five months (since the Province filed its cross-appeal of the September 26, 2016 Supreme Court of British Columbia judgment ("judgment")), have been busy for the Conseil, given the systemic changes won, which are not under appeal. The Conseil is pleased to share certain developments with the Association des parents d'étudiants de l'École élémentaire Rose-des-Vents ("APÉ RdV").

Update regarding the Conseil's improved ability to negotiate site acquisitions due to the creation of a Conseil-specific capital funding envelope, which was secured as a result of the judgment against the Province

As the parents of the APÉ RdV are aware, it was successfully argued in the action that the Province's capital funding system did not allow the Conseil's capital project requests to be evaluated in a manner that respected s. 23 of the *Canadian Charter of Rights and Freedoms* ("Charter").

As a result of this success, the Province has created a Conseil-specific, capital funding envelope containing, initially, \$52,700,000 in order to begin addressing some of the capital needs of the Conseil across the province. This initial allocation was announced for a 3-year period, beginning April 1, 2017 (see page 32 of the Province's *Budget and Fiscal Plan – 2017-2018 to 2019-2020*; this document is attached as **Schedule A**). This initial capital funding allocation is part of a larger capital funding envelope, the value of which will be partly determined through the Conseil's capital planning and the Province's capital planning process.

This kind of dedicated capital funding envelope for a French-language school board is unprecedented and represents a ground-breaking development in the Conseil's ability to provide its current and prospective students with a global educational experience that is substantively equivalent to that offered to the children of the majority.

The Conseil is proud of this result as, for the first time in its history, the Conseil is able to enter into negotiations with prospective site sellers with real negotiating power. This development is significant, notably in Vancouver, west of Main Street, where, as the parents of the APÉ RdV know well, the real estate market is fiercely competitive and sites sell quickly and at astronomical cost.

Additionally, as a result of the judgment against it, the Province must, at the Conseil's request, assist the Conseil in identifying and securing sites for Conseil schools. This duty to assist the Conseil has paved the way for a new, more balanced, and therefore improved relationship between the Province and the Conseil, one which should lead to more timely results for prospective and current students.

Update regarding the search for permanent solutions to remedy the s. 23 Charter breach in Vancouver, west of Main Street

The acquisition of sites in Vancouver, west of Main Street, has been the Conseil's most challenging project for over a decade. The Conseil has devoted significant resources to secure solutions in this region that will ensure substantive equivalence. The September 26, 2016 judgment in the trial of the Conseil, the Fédération des parents francophones de la Colombie Britannique (the "FPFCB") and the co-plaintiff parents' action that the Conseil has acted reasonably and did not fault the Conseil with regard to its capital planning in Vancouver, west of Main Street, and instead found that the current situation results from the unique interplay of Vancouver's land constraints and actors pursuing their own self interests. The Supreme Court of British Columbia found as it did in light of the Vancouver Board of Education's ("VBE") long standing policy of never disposing of school sites, the Province's former policy that left the Conseil to search for space in Vancouver, west of Main Street without assistance (including the Ministry of Education failing to consult other land holding ministries for site options), the VBE's refusal to close any schools in recent years, the City of Vancouver's municipal planning priorities, the

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University of British Columbia's lack of interest in accommodating a Conseil site, unresolved land claims, and the federal government's failure to provide for a Conseil site at the Heather Street lands and the Jericho lands before their disposal.

Over the years, the Conseil has turned over every rock, investigated every whisper, and pursued every attractive opportunity for site acquisition in Vancouver, west of Main Street. Without the Province's support, the Conseil was not been able to capitalise on these opportunities. The successful resolution of the trial of the Conseil, the PFCB and the co-plaintiff parents' action and of the APÉ RdV's petition have not slowed the Conseil's efforts on this front, and in recent months, the Conseil and the Ministry of Education's senior officials have been working together.

Indeed, the Conseil can share that it has had many meetings and communications with the Province regarding the implementation of the decisions in the action and the petition. However, as many of these discussions and communications were made in the context of without prejudice discussions, it would be inappropriate for the Conseil to divulge details at this point.

Nevertheless, the Conseil can share some details related to efforts to secure permanent sites to alleviate the overcrowding and address the unmet needs in Vancouver, west of Main Street.

One such development is that in March 2017, the Conseil received approval from the Province to proceed with the development of a site study on the Heather Street lands redevelopment project as a partial solution to the s. 23 *Charter* breach in Vancouver west of Main. As such, the Conseil has continued to work diligently to attempt to secure a site on the Heather Street lands. The Conseil is in regular communication with the Canada Lands Corporation ("CLC") and has provided details of the Conseil's school facility requirements for the site. The Conseil is also engaging with the City of Vancouver, with a view to including a school site for the Conseil in the Policy Statement of the redevelopment for the Heather Street lands. In February 2017, the Province and the Conseil indicated in writing to CLC and the City of Vancouver that they are willing to acquire a site on the Heather Street lands at fair market value (see the joint letter to CLC and the City of Vancouver dated February 17, 2017; this document is attached as **Schedule B**).

Of course, other site options are the subject of discussions and are being pursued.

Update regarding the search for temporary solutions to remedy the s. 23 *Charter* breach in Vancouver, west of Main Street

As announced on Wednesday, May 3, 2017, a lease of the Henderson Annex, a closed school of the Vancouver Board of Education ("VBE") situated in proximity to École élémentaire Rose-des-vents, has been secured for the Conseil. Some students, who would otherwise attend École élémentaire Rose-des-vents, will begin taking classes at Henderson Annex in September 2017. A

meeting with parents has been scheduled for Monday, May 15, 2017, which will give parents another opportunity to ask questions, express concerns, and assist the Conseil in determining how best to use the additional capacity made available to it, temporarily, at Henderson Annex. Parents are notably being consulted about the grade configuration and programming options at Henderson Annex.

The space made available to the Conseil at Henderson Annex will partly relieve the overcrowding at École élémentaire Rose-des-vents, and will allow the very important and long-running early childhood learning programs to continue their present operations at École élémentaire Rose-des-Vents. While the lease of Henderson Annex obviously does not resolve the breach at École élémentaire Rose-des-Vents, as the facility is inadequate and will still operate over its capacity, it is a mitigating measure that will improve the global educational experience at the school for existing and prospective students while the Conseil and the Ministry continue their work on medium and long-term solutions.

Regarding Sir Wilfrid Laurier Annex, another school of the VBE, the Conseil requested that the VBE lease this facility to the Conseil in lieu of Henderson Annex. The VBE responded that Sir Wilfrid Laurier Annex was not available for lease. The Conseil will again press the VBE and the Province to make the Sir Wilfrid Laurier Annex facility available to it.

Request for meaningful participation

The Conseil welcomes the participation and input of parents of students in its school communities. The Conseil also welcomes parents to attend board meetings and to communicate with their school board trustees in order to provide input regarding their community's needs. The Conseil provides a livestream of its board meetings online in order to allow parents across the province to follow and to participate in the Conseil's board meetings.

The Conseil board members are, of course, each representatives of the parents of their designated region, elected by parents. Together, in exercising the right of management and control under s. 23 of the *Charter*, the Conseil's seven trustees not only represent the interests of the parents of their designated region, but also see to the needs and consider the interests of British Columbia's French-speaking community as a whole. Ms. Kolber, the Conseil board trustee for the Greater Vancouver region, is an educator with a long history of involvement in Vancouver, west of Main Street, having served as secretary and president of the programme préscolaire Pomme d'Api and as the president of the Association des parents de l'École secondaire Jules Verne. Ms. Kolber is available to discuss the concerns of the parent community in Vancouver, west of Main Street.

Request to admit children to a Conseil school in Vancouver, west of Main Street that are not permitted under the *School Act*

As you know, the Conseil is bound by s. 166.25(9) of the *School Act*, which restricts admissions to the Conseil's schools. The question of admission of students restricted by s. 166.25(9) of the *School Act* is under appeal by the Conseil, the PFFCB, and co-plaintiff parents. Where space in its schools permits, the Conseil supports the admission of children who are not currently permitted to attend a school of the Conseil, but who should be eligible to attend a school of the Conseil in order to contribute to the development and vitality of French-language communities across the province.

Timeline for solutions to remedy the s. 23 *Charter* breach in Vancouver, west of Main Street

The Conseil is working diligently and tirelessly towards securing permanent solutions to the s. 23 *Charter* breach identified in Vancouver, west of Main Street. However, it is impossible, due to circumstances outside the Conseil's control, such as third parties' willingness to sell to the Conseil, to provide a clear estimate of when solutions will be secured. The Conseil continues to push and lead investigations into every suitable and feasible site option in Vancouver, west of Main Street.

Given the progress made with a number of partners in Vancouver, west of Main Street, the details of which will not be disclosed at this time given the risk of jeopardizing the successful realization of these projects, the Conseil is of the view that a return to Court would not be appropriate at this time.

Yours truly,



Marie-France Lapierre

Chair

cc Warren B. Milman, Karrie A. Wolfe and Katherine Webber
Counsel for the Ministry of Education

Mark C. Power, Robert W. Grant, David P. Taylor, and Ania V. Kolodziej
Counsel for the Conseil scolaire francophone de la Colombie-Britannique

Enclosed: **Schedule A:** Page 32 of the Province's *Budget and Fiscal Plan – 2017-2018 to 2019-2020*

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Schedule B: Joint Conseil and Province of British Columbia letter to the CLC and City of Vancouver dated February 17, 2017