

# Musqueam band halts sale of B.C. office towers

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VANCOUVER — The Musqueam Indian band has scored a major legal victory against the federal government, halting the sale of two office towers – and asserting aboriginal title in the heart of Vancouver's business district.

At issue is Ottawa's proposed sale of the Sinclair Centre and another office and retail complex on Burrard Street, part of a larger disposition of nine buildings across Canada to Vancouver-based Larco Investments Ltd. for \$1.64-billion.

In an oral ruling, a Federal Court of Canada judge Friday halted the sale of the two Vancouver buildings, issuing an injunction requested by the Musqueam.

That decision does not decide the larger issue of whether the deal can go ahead, but will prevent the buildings from changing hands until a final judgment is made.

In the meantime, the band is hoping that Friday's courtroom victory will push the federal government to the negotiating table, said Jim Reynolds, general counsel for the Musqueam.

“The main thing is to get the government to agree that this kind of issue ought to be negotiated, not litigated.”

The buildings in question are more than a dozen kilometres distant from the Musqueam reserve, but the band claims them both as part of its traditional territory, Mr. Reynolds said.

The Musqueam have been involved in similar legal tussles before, winning an injunction stopping the sale of the Garden City property in Richmond.

The band eventually struck a deal with the federal government that gave it joint ownership in half of that property in exchange for letting the remainder be sold.

The same band is negotiating with the provincial government to assume ownership of the golf course at the University of British Columbia, another piece of prime real estate in Vancouver.

Mr. Reynolds said it is too early to say what direction any negotiations over the two office buildings might take, but added that the Garden City deal could be a model.

He said the court heard evidence that a delay in proceeding with the sale would cost the federal government \$33-million, but that the judge decided that the need to safeguard aboriginal claims over the building outweighed that dollars-and-cents consideration.

Just what effect the injunction will have on Ottawa's deal with Larco is not clear.

The contract allows the federal government to sell seven rather than nine buildings.

However, Larco executive director Thad Alston wasn't able to provide detailed comment Friday, saying his firm is aware of the decision and will be seeking legal advice early next week.

Public Works Canada and the lawyer acting for the federal government could not be reached for immediate comment.

The Musqueam decision is the latest in a string of aboriginal victories before legal and regulatory bodies.

Last week, a review board cited aboriginal opposition in recommending against a major mining project in northern British Columbia.

However, one legal expert said aboriginal bands have not gained government-like powers over traditional lands, just the right to adequate consultation.

"It definitely does not mean a veto," said Keith Clark, a partner at Lang Michener LLP in Vancouver, who has acted for companies in similar cases, including one involving the Musqueam.