

XI-766

PD
INFORMATION FROM R.C.M.P.

Date Oct. 20/43.

Our File No. Plot 766

Full Name HAYASHI, Senju (Mr)
(Surname in Block Letters)

Registration No. 04056

Male - Female
(check)

Age June 27, 1909

Former Address 236 Powell St., City

Evacuated (Interned) June 1/42 Naturalized - Canadian-Born - National
(check)

Released conditionally May 15, 1943

Present Address % C.E. MacDermid,
Timber Centre,
MacDermid, Ont.

Married - Single
(check)

Name of Wife (TERAMURA) Haruna # 02967

Name of Husband

Name of Mother (KITAMURA)

Name of Father Senya (Deid)

Names of Children under 16

Yas (Deid) Masami (M) Feb. 25/35

Yori (M) Sept. 23/37

Jimmy (M) Oct. 22/40

Requested by D. Igarashi

Registered with Custodian
(Yes or No)

Additional Information

Pacific Shingle Co.

JOHNSON, REEVE and WATSON
Estate Agents
Valuations, Arbitrations, Insurance, Real Estate, Mortgages

Bank of Nova Scotia Building,
602 West Hastings Street,
Vancouver, B. C.

23rd May, 1942.

The Custodian's Office,
509 Royal Bank Building,
VANCOUVER, B. C.

File No. 766
Legal Department

Attention of Mr. K.W. Wright

958 - 3

EXHIBIT No. _____
DATE 21 Apr., 1948.
FILED BY J.W. G. Hunter

Dear Sir: re Lot 25 Block 5 D.L. 196
236 Powell Street, Vancouver.

In accordance with your instructions we have inspected this property and beg to report as follows:-

Land The dimensions of the lot are 25 feet by 122 feet.

Building. This is a two storey wood frame structure which is only a portion of the original building of which the rear portion has been condemned by the City and demolished. There is no staircase or other means of access to the upper storey so that in effect this can only be regarded as a one storey building, 22 ft. by 40 ft. The roof is in bad condition and the framework, where visible, is badly deteriorated. There is a small concrete footing wall foundation and a concrete floor. The interior is lined with v-joint and the electric wiring is old and will probably be condemned. The sink and W.C. fixtures have been removed. The shop front has plate glass on one side and a 4-light window on the other side of which one light is broken. The premises are very dirty and the interior fittings in bad condition.

The building is so old and dilapidated that it would not be worth while to spend much money on restoration. To prolong the life of the building by substantial repairs would probably cost more than would be allowed by the City, because it is within the No. 1 Fire limit where new wood construction is prohibited. The building is not habitable in its present condition.

The City Assessment on the building has been reduced to \$800. The value is probably only set down on the basis that as long as the building is allowed to remain, some value must be shown on the assessment roll. The land value has been reduced to \$3,125 as a first step towards adjusting the value downwards to its actual value. The Assessor is averse to making the full reduction required, in a single year, and will no doubt make further reductions. \$3,125 is very much in excess of the market value under present conditions.

The taxes for the current year are \$179.26.

The only remaining value of the property is in the land. What little salvage could be obtained in removing the building would be more than offset by the cost of demolition. The foundations and floor would not be suitable for a new brick building.

There is considerable difficulty in obtaining building materials, and not sufficient demand for premises in this location at rentals which would justify new construction at present day costs. There are many

JOHNSON, REEVE and WATSON
Estate Agents
Valuations, Arbitrations, Insurance, Real Estate, Mortgages.

- Page 2 -

Bank of Nova Scotia Building,
602 West Hastings Street,
Vancouver, B. C.

23rd May, 1944.

The Custodian's Office,
VANCOUVER, B. C.

existing buildings in the neighbourhood in competition at lower rentals.

Regarding the property as vacant land, the necessity of paying taxes makes it advisable to sell as soon as possible to avoid loss. The prospect of improvement in land value is too remote to justify a speculative holding for the future.

In view of the circumstances described above, we are of the opinion that the market value of the property is not more than One thousand dollars (\$1,000).

Yours faithfully,

JOHNSON, REEVE & WATSON

per "D.W. Reeve"

DWR

I hereby certify that the foregoing words are a true copy of the original whereof they purport to be a copy.

Dated June 15, 1948.

John M. Scoby

JOHNSON, REEVE and WATSON
Estate Agents
Valuations, Arbitrations, Insurance, Real Estate, Mortgages

Bank of Nova Scotia Building,
602 West Hastings Street,
Vancouver, B. C.

19th February, 1944.

The Custodian's Office,
Room 509,
Royal Bank Building,
VANCOUVER, B. C.

958 - 4
EXHIBIT No. _____
DATE 21 Apr., 1948.
FILED BY J.W.G. Hunter.

File No. 554/766

Legal Department

Attention of Mr. E.W. Wright

Dear Sirs

re 1810 Cotton Drive
Parcel B of Lots 1 and 2 Block 73 D.L. 2644

We have inspected this property as requested and beg to report as follows.

Neighbourhood. The property is conveniently situated, near transportation, shops, local theatre and school. The district has been built up for many years and most of the houses are from 25 to 30 years old.

Land Lots 1 and 2 are 66' x 122' fronting on 2nd Avenue and were subdivided into 4 parcels A, B, C, and D each measuring 30.5' x 66'. Four houses of similar design and plan are built on these, probably during the year 1912.

The small size of the lots makes for congestion and while the houses would rent fairly readily, they would not be attractive to purchasers for homes, except at a moderate price.

Building. The house has a floor area of a little over 600 feet on each floor. It is a two storey frame building with shingled walls and roof in fair condition but in need of paint. The front verandah and the deck over need repairs, the railing of the deck being rotten and dangerous and the balusters being loose.

The foundation is of concrete and there is a concrete floor in the basement, also a lined garage. There is a hot air furnace (old) and laundry tubs.

There are six rooms, pantry and bathroom on two floors. There is a fireplace in the dining room. The plumbing is old and the sink worn out. We are informed that the floors are in poor condition but these have been covered with linoleum by the tenant, who has also papered the ceiling and walls.

Occupancy The tenant, A. Wilmet, has lived in the house for ten years and keeps it in good clean condition. He says he is negotiating for a house elsewhere, and if he should vacate soon, it may be possible to get a better price with vacant possession.

We understand that the rent is \$20. per month.

Assessment and Taxes The City assesses the property at \$1,415 of which \$1,200 is for the house. The taxes last year were \$40.75 net which is low enough to assist in attracting a buyer.

JOHNSON, REEVE and WATSON
Estate Agents
Valuations, Arbitrations, Insurance, Real Estate, Mortgages

- Page 2 -

Bank of Nova Scotia Building,
602 West Hastings Street,
Vancouver, B. C.

19th February, 1944.

The Custodian's Office,
VANCOUVER, B. C.

Appraisal In more normal times the selling value of houses like this would be about \$1,200 and the tenant states that in 1937 the Japanese owner offered to sell it on easy terms for \$1,000.

On the present market we believe that the price should be set not lower than \$1,400 and if possession can be given to a purchaser fairly soon, you may be able to obtain \$1,600 or \$1,700.

We have taken into account the repairs and painting required to put the house into fairly good condition.

Yours faithfully,

JOHNSON, REEVE & WATSON

per "D.W. Reeve"

I hereby certify that the foregoing words are a true copy of the original whereof they purport to be a copy.

Date: June 15th, 1948.

Ch. M. Sealy

Advertisement in the Vancouver Daily Province, August 28th, 1943

DEPARTMENT OF THE SECRETARY OF STATE OF CANADA
OFFICE OF THE CUSTODIAN

REAL PROPERTY FOR SALE BY TENDER

THE Secretary of State of Canada, acting in his capacity as Custodian of Enemy Property, hereby offers for sale by public tender such interests as are vested in him in the following properties situate in the CITY OF VANCOUVER:

Lot "A" of Lots 7 and 8, Block 13, D.L. 302, Group 1, New Westminster District, Plan 5832, known as 306-316-320 WEST FIFTH AVENUE, being a one and one-half storey, five-room frame dwelling and a two storey frame store with living quarters above;

Lot "B" of Lots 7 and 8, Block 13, D.L. 302, Group 1, New Westminster District, Plan 5832, known as 2108 ALBERTA STREET, being a one and one-half storey, six room frame dwelling;

Lot 30, Block 53, D.L. 196, Group 1, New Westminster District, Plan 196, known as 513 EAST CORDOVA STREET, being a two storey, seven room frame dwelling at front, and one and one-half storey, four room frame dwelling at rear;

Lot 8, Block 58, D.L. 196, Group 1, New Westminster District, known as 636 EAST CORDOVA STREET, being a one and one-half storey, five room frame dwelling at front, and small three room frame dwelling at rear;

Lot 25, Block 5, D.L. 196, Group 1, New Westminster District, known as 236 POWELL STREET, being a two storey frame store building with rooms above;

Parcel "B" of Lots 1 and 2 (reference Plan 35), Block 73, D.L. 264 "A," Group 1, N.W.D., Plans 391 and 1881, known as 1810 COTTON DRIVE, being a two storey, seven room frame dwelling;

Westerly $\frac{1}{4}$ of Subdivision 22 of Lot 35, Town of Hastings, Suburban Lands, Plan 354, Group 1, New Westminster District, known as 2565 PANDORA STREET, being a five room frame bungalow and garage;

East $\frac{1}{4}$ of Lot 2, Block 36, D.L. 200 "A," Group 1, New Westminster District, known as 18 EAST 6TH AVENUE, being a two storey, six room frame dwelling;

Lot 5, Block 4, D.L. 196, Group 1, New Westminster District, Plan 184, known as 116-118 MAIN STREET, being a two storey frame store building;

Lots 6 and 7, Block "R," D.L. 139, Group 1, New Westminster District, Plan 5532, known as 2903 WEST 23RD AVENUE, being a one and one-half storey, six room frame dwelling;

AND

the following properties situate in the Municipality of Richmond at STEVESTON:

Lot 8, Block 5, Section 10, Block 3, North, Range 7 West, Map 249, save and except the West 19 feet thereof, in the District of New Westminster, known as 58 MONCTON STREET, being a one storey frame store building;

Lot 8, Block 6, Section 10, Block 3, North, Range 7 West, Map 249, in the District of New Westminster, known as 26 MONCTON STREET, being a one storey frame store building with living quarters at rear;

Lot 7, Block 6, Section 10, Block 3 North, Range 7 West, Map 249, in the District of New Westminster, being a VACANT LOT on Moncton Street;

Lot 1, of the West part of Block 8, Section 10, Block 3 North, Range 7 West, Map 6392, in the District of New Westminster, known as 53 CHATHAM STREET, being a two room frame dwelling and two room frame store building.

Tenders for the purchase of such property interest vested in the Custodian will be received subject to the following terms and conditions:

1. Each tender must be for one of the parcels described, but a separate tender may be filed for each of several parcels.
2. A tender offering for parcels in the alternative will be considered an offer only for the parcel first named.
3. A certified cheque payable to the order of "The Custodian" for ten percent (10%) of the amount offered must accompany each tender.
4. Each tender must be in a separate sealed envelope addressed to "The Custodian," 512 Royal Bank Building, 675 West Hastings Street, Vancouver, B.C., and each envelope must be marked on the outside "Tender for Real Estate."
5. Tender must be for purchase for cash.
6. All adjustments will be made at the date of conveyance.
7. Properties will be sold subject to existing leases and encumbrances, if any.
8. The Custodian reserves the right to cancel every accepted tender and to refund the deposit at any time prior to delivery by him of the conveyance.
9. The properties are offered for sale without any warranty whatsoever by the Custodian of location or condition of buildings or improvements.

Cheques in respect of unaccepted bids will be returned in due course.

Neither the highest nor any tender will necessarily be accepted.

Tenders will be received by the undersigned up to Noon Daylight Saving Time on the Fifteenth Day of September, 1943. Further particulars may be obtained during office hours any day up to Noon on the Fourteenth Day of September, 1943, and arrangements made with the undersigned to inspect the said premises.

Similar arrangements will be made by Mr. C. C. Robinson, Steveston, to inspect properties situate in Steveston.

DATED at Vancouver, British Columbia, this 28th day of August, 1943.

The Custodian of Enemy Property,
512 Royal Bank Building,
Vancouver, B.C.

44-31-5-44

Department of the Secretary of State of Canada
—Office of the Custodian
REAL PROPERTY FOR SALE
BY TENDER

The Secretary of State of Canada, acting in his capacity as Custodian under or by virtue of the Revised Regulations Respecting Trading With The Enemy (1943), hereby offers for sale by public tender, such interests as are vested in him in the following residential and farm properties:

Lot 184, Town of Hastings, all north of line parallel to South Boundary and distance 44 feet therefrom, City of Vancouver, known as 2808 Wall Street, Vancouver, and containing a 4-room frame dwelling.

Lot 18, Block 234, D.L. 524, Group 1, New Westminster District, Plan 520, known as 873 and 877 West 7th Avenue, Vancouver, being 2 single storey, five-room dwellings.

Lot 25, Block 5, D.L. 194, Group 1, New Westminster District, known as 220 Powell Street, Vancouver, being a 2-storey frame store building with rooms above.

Lot 22, Block 48, D.L. 181, Group 1, New Westminster District, being a Vacant Lot in the 900 Block East Cordova Street, Vancouver.

Lot 27, Block 41, D.L. 194, Group 1, New Westminster District, being a Vacant Lot in the 100 Block Powell Street, Vancouver.

Lot 6, Block 1, North East Quarter of Section 22, Town of Hastings, Plan 2055, being a Vacant Lot in the 2500 Block Adanac Street, Vancouver.

Lot 1, Block 2 of the North Half of Lot 118, Group 1, Map 1216, New Westminster District, known as 2700 East Hastings Street, Burnaby, being a one-storey frame store building.

Lot 2, Block 2, of the North Half of Lot 118, Group 1, Map 1216, New Westminster District, known as 2700 East Hastings Street, Burnaby, being a frame lean-to store building.

Lots 9 and 10, Block 48 of Lot 247, Group 1, Map 2720, New Westminster District, on Maude Road, Port Moody, being a 4-room single storey dwelling.

Block 23 of the Southwest Quarter of Section 28, Township 17, Map 905, Municipality of Mission, New Westminster District, situated on Hurd Road, Mission, being a farm of 3 acres, more or less.

Block 16, D.L. 193, Group 1, New Westminster District, Plan 1532, situated on Pipe Line Road, East side of Seymour Creek, District of North Vancouver, being 2 1/2 acres more or less with a single storey, 4-room dwelling.

All that part of a 11.349 acre portion shown lettered "C" on sketch deposited No. 1604 of Lot 41, Group 1, lying North of a line parallel to the South Boundary of said portion and distant North therefrom 3.4 chains, Municipality of Coquitlam, in the District of New Westminster, being a farm property of 1.3 acres, more or less, on Robb Road, near Burquitlam P.O., being a four-room frame dwelling and outbuildings.

Tenders for the purchase of such interests in the above described property as are vested in the Custodian will be received, subject to the following terms and conditions:

1. Each tender must be for one of the parcels described, but a separate tender may be filed for each of several parcels.
2. A tender offering for parcels in the alternative will be considered an offer only for the parcel first named.
3. A certified cheque payable to the order of The Secretary of State as Custodian, for ten percent (10%) of the amount offered, must accompany each tender. The deposit will be forfeited as liquidated damages if the tender is accepted and not completed by the purchaser immediately upon his being required to do so by the Custodian.
4. Each tender must be in a separate sealed envelope, addressed to The Office of the Custodian, 503 Royal Bank Building, 675 West Hastings Street, Vancouver, B.C., and each envelope must be marked on the outside "Tender for Real Estate."
5. The balance of the purchase price shall be paid in cash.
6. All adjustments shall be made as of the date of conveyance.
7. The property is sold subject to existing leases and encumbrances, if any.
8. The property is offered for sale without any warranty whatsoever by the Custodian as to location or condition of buildings or improvements or the existence or non-existence of any encroachments.
9. The Custodian reserves the right to cancel any accepted tender and to refund the deposit at any time prior to delivery by him of the conveyance or transfer.
10. Neither the highest nor any tender will necessarily be accepted.

Cheques in respect of unaccepted tenders will be returned in due course.

Tenders will be received by the undersigned up to Noon, Pacific Daylight Saving Time, on the Twenty-fourth day of June, 1944. Further particulars may be obtained during office hours any day up to noon on the Twenty-third day of June, 1944, and arrangements made with the undersigned to inspect the said premises.

DATED at Vancouver, British Columbia, this 29th day of May, 1944.

THE CUSTODIAN,
503 Royal Bank Building,
675 West Hastings Street,
Vancouver, B.C.

IN THE MATTER OF THE "INQUIRIES ACT"
PART I. REVISED STATUTES OF CANADA 1927. CHAPTER 99.

JAPANESE PROPERTY CLAIMS COMMISSION

B E F O R E
(THE HONOURABLE MR. JUSTICE H.I. BIRD, COMMISSIONER).

10

Port William, Ontario,
April 21st, 1948.

IN THE MATTER OF THE CLAIM OF
GENGI HAYASHI.

PROCEEDINGS AT HEARING.

20 APPEARANCES:

J.W.G. HUNTER, Esq., appearing for the
Dominion Government.

S.M. CHERNIACK, Esq., appearing for the
Claimant.

A. WATSON, Esq., Secretary.
D.J. HANDFORD, Esq., Official Interpreter.
T.P. HORROBIN, Esq., Official Reporter.

30

G. Hayashi,
In Chief,
Discussion.

MR. CHERNIACK: My lord, in this matter you will note
that there are two properties, one on Powell Street,
and one on Getton Drive. Might I first say, my
lord, that these properties are in the name of
Hanyemon Hayashi. My learned friend has on his
file, my lord, a notarial copy of the will of
Hanyemon Hayashi and if I may summarize it, my lord,
and my learned friend will either confirm it or
point out any error I might make, Hanyemon Hayashi
appointed three executors, or rather two executors,
my lord, with instructions that the property be held
in trust, the annual income therefrom to be paid to
his widow, and after her death to be held for the
benefit of the two sons. The will doesn't give the
names of the two sons, my lord, and the claimant
states that he is one of the sons. The other son
went to Japan before the war and the claimant has
been in possession of these two properties and has
managed them and paid no rent. This is information,
my lord, received from the Custodian's file.

GENGI HAYASHI, the claimant herein, being
first duly sworn, testified as
follows:

DIRECT EXAMINATION BY MR. CHERNIACK:

THE COMMISSIONER: When did the death of the deceased
occur?

MR. CHERNIACK: Q: Witness, when did your father die?

A I forget the date in English but I can say it in
Japanese.

30 THE COMMISSIONER: Q: You say it in Japanese and it will

G. Hayashi,
In Chief.

be interpreted for you.

THE INTERPRETER: A: 1927.

MR. CHERNIACK: A difficulty, my lord, has arisen with the records of birth of the claimant who was born in Vancouver, giving the name of the father as Genya Hayashi, and it is our submission or it is our problem that we will have to satisfy the Custodian as to the discrepancy in the given name of the father before the money is paid out.

10 THE COMMISSIONER: The mother is living?

MR. CHERNIACK: The mother is dead, my lord.

THE COMMISSIONER: She has died since?

MR. CHERNIACK: Yes, my lord. The Custodian's file does indicate that they have some evidence to show that this claimant is the son of the registered owner of the property and I am applying now, my lord, to have you hear this claim and should any moneys be paid as a result of your recommendations that they be paid into an account which the Custodian has in the name of the registered owner, and since I feel it is not for your Lordship to be troubled with this decision, that I would then be in a position to satisfy the Custodian as to paying out the moneys.

20

THE COMMISSIONER: There is only one difficulty, as I see it, in proceeding in the way you suggest, and that is this, that assuming there is adequate proof of the claimant's right to an undivided half interest in these properties, he is only entitled to an undivided half interest, the other half interest being with a person who is now a resident of Japan

30

4

G. Hayashi,
In Chief.

and that interest could not pass to the claimant.

MR. CHERNIACK: That is correct, sir. There is only this, that the will does not refer to any specific property. The claimant has only verbal evidence to give to the effect that he and his brother made arrangements that the brother should keep the properties in Japan and he would keep the properties here. However, I do agree, my lord, that his interest on the surface would appear to be only a half interest.

10

THE COMMISSIONER: Assuming there was such an arrangement between he and his brother, is that not a matter that must be proved before me? In other words, it would appear to me at the moment that I must pass upon the right of this claimant to share in any recommendations which I may make, and also pass upon the right of the brother in Japan. That would hardly be a matter for the Courts. Do you follow me?

MR. CHERNIACK: Yes, I do, my lord.

20 THE COMMISSIONER: Because I am charged with the duty of passing upon all claims of persons who were resident in Canada as of a certain date. I had better have the brother's name.

Q What is your brother's name who returned to Japan?

A George Hayashi.

THE COMMISSIONER: In the circumstances, I would have to now declare that George Hayashi is not entitled under the terms of reference to make any claim here. The only person entitled would be the claimant who is now before us.

30

G. Hayashi,
In Chief.

MR. CHERNIACK: Yes, that is correct, sir. The will, unfortunately, is rather vague and gives the executors a great deal of authority in deciding who of the two sons was to get what property.

THE COMMISSIONER: Is the will available or a copy of it that can be agreed upon as a true copy?

MR. CHERNIACK: We will have to accept it as a notarial copy. The claimant has never seen the will itself.

MR. HUNTER: I don't think this is a notarial copy, is it?
10

MR. CHERNIACK: No. I noticed a certificate on your file by a Fort William lawyer.

THE COMMISSIONER: Q: When did your brother, George, leave for Japan?

A: When he was 5, sir. When he was 5 years old.

Q: Was he about the same age as yourself?

A: He is 24 now, sir.

Q: So he left 19 years ago? A: Yes.

MR. CHERNIACK: My lord, Mr. Shears is looking for that certificate. This, however, is a copy of the will.
20

THE COMMISSIONER: Q: I understand, Hayashi, that the trustees under your father's will never did realize on the estate, is that right? They did not sell the investments your father had at the time of his death and put the money in the bank, or anything of that kind?
A: No, sir.

Q: They did nothing, is that right?

A: Yes.

Q: So that the situation now is this; that these two pieces of real estate in respect of which you are
30

6
G. Hayashi,
In Chief.

claiming are properties that your father owned at
the time of his death? A: Yes.

Q And they are still registered in his name?

A Yes.

Q Are the trustees living? A: They are in
Japan, too.

Q They are all in Japan? A: Yes, sir.

THE COMMISSIONER: I notice, Mr. Cherniack, toward the
end of page 2 of the will there is this provision,
10 "If this division is not made in my wife's lifetime,
then on my wife's death my surviving trustees shall
have an absolute discretion as to the division of
my estate between my children then living as to
the amount to be received by each child, if more
than one". Now, we are told there are two.
The trustees apparently never did exercise dis-
cretion, and they are not here to do it.

MR. CHERNIACK: My lord, the claimant's contention is
they did by verbally turning this property over to
20 him, and the Custodian's files do show a letter
from a man who managed the property, a Mr. Kiti-
gawa, who received instructions from the executors
to let him have these premises rent free. I believe
that is correct.

THE COMMISSIONER: Well that does not carry it very far,
because what evidence is there that Kitigawa in
fact was acting for the executor?

MR. CHERNIACK: Only his own. He is available. He is
in Toronto.

30 THE COMMISSIONER: Well I suppose we are only guessing

G. Hayashi,
In Chief.

now, Mr. Hunter. It looks to me as if this will
is going to create quite a problem both from the
point of view of the Custodian's as well as the
claimant's counsel.

MR. HUNTER: Yes, I think it is cogent to your investi-
gation, because until you know definitely what it
was this man is entitled to, it is impossible for you
to make a recommendation.

10 THE COMMISSIONER: That is the point. I think what I
shall do is reserve the question of who is entitled,
giving leave to counsel to present such further
evidence or argument as they may be instructed at
a later date, and I will go on and hear the evidence
with a view to determining whether or not any
recommendation should be made.

MR. CHERNIACK: Does your Lordship refer to the both
half interests, or to the one?

20 THE COMMISSIONER: I am referring to the whole. Assuming
that I finally reach a conclusion after hearing
the evidence adduced now that some recommendation
should be made, then the question as to who is
entitled will have to be determined. What I am
proposing is that there should be no determination
of that question now but that I should go on and
hear the evidence and determine whether or not any
recommendation should be made. If a recommendation
is to be made, then there will still be left for
determination the question of who is entitled.
I cannot see any other solution to it at the moment.
30 I would be pleased to have any suggestions from

G. Hayashi,
In Chief.

counsel. Can you see any other answer to it, Mr. Hunter?

MR. HUNTER: No, I don't, my lord. If it were a straight half interest, it would be simple, but when you don't even know what his interest is, until the brother's evidence is produced, I don't see how you can make your recommendation. If you could assume it were a straight half interest, the recommendation could be made and it could be paid to the estate and that would take it out of your Lordship's hands and the Custodian could worry about it.

10

THE COMMISSIONER: But I am still faced with the problem of this brother who is in Japan, who, apparently, it is conceded, has a half interest.

MR. HUNTER: Yes, but, of course, my lord, he does not come within the terms of reference.

THE COMMISSIONER: Therefore, I could only deal with the half interest of the claimant.

20

MR. HUNTER: Yes. If it was a clear-cut half interest, I think you could deal with it in that manner by recommending that the estate receive it.

THE COMMISSIONER: Yes, that is so.

MR. HUNTER: But the will seems to leave such a discretion with the executors that even the half interest isn't clear.

30

THE COMMISSIONER: Are you content that I proceed to deal with it on the basis that I outlined, namely to hear evidence with a view to determining whether or not any recommendation should be made, and the amount of the recommendation, but before it is made

G. Hayashi,
In Chief.

I will have to hear argument on the other problem.

MR. HUNTER: That is quite agreeable, my lord.

THE COMMISSIONER: Would that suit you, Mr. Cherniack?

MR. CHERNIACK: Yes, my lord.

THE COMMISSIONER: I cannot see any other solution to it.

There are legal difficulties here, Hayashi,
that we will perhaps have to deal with later, but
I will go ahead and hear your claim now just as if
you were entitled to the whole.

10 A Thank you, sir.

Q Then I am faced with the question of how much you
are entitled to later on.

A Thank you, sir.

THE COMMISSIONER: I think that is the best we can do
with it.

MR. CHERNIACK: Your Lordship will find there is a
further difficulty, but I do not consider this a
serious difficulty; of the two properties that are
being claimed for, the claim was in both cases
20 based on the assessed value. One property, that
is the one on Powell Street, where the claim totals
\$5,850.00, it was sold by the Custodian for
\$1,400.00.

THE COMMISSIONER: Wait a minute. The claim as presented
to me is only for \$3,750.00 and \$215.00, that would
be \$3,965.00.

MR. CHERNIACK: I am sorry, it isn't very clear.

THE COMMISSIONER: I follow it now.

MR. CHERNIACK: The first property for a total of
30 \$5,850.00 was sold by the Custodian for \$1,400.00.

G. Hayashi,
In Chief.

The other property, my lord, showing a claim of \$14,15.00, was sold by the Custodian for \$1600.00.
THE COMMISSIONER: You are going to make a refund, are you?

MR. CHERNIACK: I doubt it, my lord. The statements the claimant will make in regard to both properties is that he doesn't know of his own knowledge the actual value of these properties and he is asking for a review by your Lordship.

10 THE COMMISSIONER: Yes.

MR. CHERNIACK: So that, although he has shown a certain claim at that time, my lord, he didn't know the sale price and he just filed his claim in order to be on record. He is not actually setting a figure because on the present statements as to the value of the second parcel and as to the value of the first, he is showing only the assessed value. He is asking to leave the entire question to your Lordship.

20 THE COMMISSIONER: As to whether or not it was sold —

MR. CHERNIACK: At a fair market value.

THE COMMISSIONER: — at a fair market price.

MR. CHERNIACK: Yes, my lord.

THE COMMISSIONER: Is there any objection to that approach to it?

MR. HUNTER: I am sorry, my lord, I didn't follow that.

THE COMMISSIONER: In effect, counsel is proposing that no claim should be presented but rather that it should be left to me to determine on the evidence whether the fair market value on each of these

parcels has been realized.

MR. HUNTER: That is quite in order, my lord.

MR. CHERNIACK: Thank you, my lord, and thank you, Mr. Hunter.

Q Witness, I show you two typewritten statements. Were these prepared in accordance with your instructions?

A: Yes.

Q Are these your signatures? A: Yes.

Q Do you swear the contents to be true to the best of your knowledge and recollection?

10

A Yes.

MR. CHERNIACK: My lord, I will file as Exhibit 1 the real estate statement referring to 236 Powell Street, and as Exhibit 2 the real estate statement referring to 1810 Cotton Drive.

(STATEMENT MARKED EXHIBIT NO. 1)

(STATEMENT MARKED EXHIBIT NO. 2).

MR. CHERNIACK: Since it is only a matter of value, my lord, Exhibit 1 states that this property was purchased in 1912 by Hanyemon Hayashi for \$5600.00. He doesn't set out the amount of improvements made but shows only the assessed value and states, "At the time I evacuated the rooms and store were all rented and the gross revenue was about \$150.00 monthly. I believe it may have been possible to repair the premises to the building inspector's satisfaction so that the property would continue to be revenue bearing." May I point out to your Lordship the statement as to improvements shows a substantial part of them had to be demolished

20

30

G. Hayashi,
In Chief.

after evacuation upon an order received by the Custodian from the building inspector. The claimant states further that he himself had never been troubled by building inspectors and believes that the land was valuable as it was well located in an important business district.

THE COMMISSIONER: Q: Near what cross street on Powell was it? A: It is near Main Street.

Main and Powell.

10 Q I know Main and Powell, but what is the block just east of Main on Powell, that is the unit block?

A To the east? Half a block from Main.

Q That is, in the direction of the sugar refinery?

A Yes.

Q It is in the first block between Main and Gore Avenue, is it? A: Yes, between Main and Gore.

MR. CHERNIACK: Exhibit 1, my lord, finally states that he believes the appraisal and sale price were too low, and since he has no knowledge of value of real estate he is basing his valuation on the assessed values and is relying on your Lordship's judgment.

20

Exhibit 2, my lord, is in respect to 1810 Cotton Drive.

Q Witness, where is this house on Cotton Drive? Near what cross street? A: One block down from Commercial Drive on 1st Avenue.

Q Cotton Drive is parallel to Commercial Drive?

A Yes.

Q And it is near 1st Avenue? A: Yes.

30 THE COMMISSIONER: I know in a general way where it is.

G. Hayashi,
In Chief.

Discussion.

MR. CHERNIACK: Exhibit 2, my lord, sets out that the property was purchased by the claimant's father in 1920. He doesn't know the cost price but states only that it was kept in good repair, and in 1933, he himself, that is the claimant, improved the property at the cost of some thousand dollars. He states, "This building, although old, was well constructed and is located in a district where homes are in great demand." He considers the appraisal too low and gives the explanation as to the original claim having been based on the assessment.

The chattel claim, my lord, is being withdrawn.

Thank you, sir.

MR. HUNTER: It is submitted, my lord, that these two pieces of real property were sold for their fair market values. I would file the appraisal of Johnson, Reeve & Watson, dated the 23rd of May, 1944, covering 236 Powell Street. They end up by saying, "We are of the opinion that the market value of the property is not more than \$1000.00". This, as your Lordship may recall, is the same property that was dealt with in the previous claim where the wife was claiming for chattels at 236 Powell Street.

THE COMMISSIONER: I remember some Powell Street claims.

MR. CHERNIACK: Where the chattels were sold for \$15.00.

MR. HUNTER: The claim just preceding this one. This is the same property. This man is her husband.

(APPRAISAL MARKED EXHIBIT NO. 3).

MR. HUNTER: I would file an appraisal dated the 19th of

G. Hayashi,
Discussion.

Cross-Exam.

February, 1944, by Johnson, Reeve & Watson on 1810 Cotton Drive, in which they say, "In more normal times the selling value of houses like this would be about \$1200.00, and the tenant states that in 1937 the Japanese owner offered to sell it on easy terms for \$1000.00.

10 "On the present market we believe that the price should be set not lower than \$1400.00 and if possession can be given to a purchaser fairly soon, you may be able to obtain \$1600.00 or \$1700.00."

(APPRAISAL MARKED EXHIBIT NO. 4).

MR. HUNTER: 236 Powell Street, as your Lordship probably has seen, was sold as of September 15th, 1944, for \$1400.00. It was sold to a Chinese, I presume, by the name of Joe Gen. I believe my learned friend will be pleased to realize it was not purchased by Peter Han.

1810 Cotton Drive was sold as of March 1st, 1944, for \$1600.00 to Mrs. Vera Bateman.

20

CROSS-EXAMINATION BY MR. HUNTER:

Q Is that a photograph of 236 Powell Street?

A Yes, sir.

Q And is that a photograph of 1810 Cotton Drive?

A Yes, sir.

MR. HUNTER: If your Lordship permits, I will put these in as one exhibit. The dates that they were taken are shown on them, my lord, and I would tender, my lord, a copy of an advertisement in the "Vancouver Daily Province" on August 28th, 1943, which includes

30

G. Hayashi,
Cross-Exam.

these two parcels.

(ADVERTISEMENT MARKED EXHIBIT NO. 5).

(PHOTOGRAPHS MARKED EXHIBIT NO. 6).

MR. HUNTER: As a result of that advertisement, my lord,
236 Powell Street was eventually sold. I might
say there was an earlier valuation on 1810
Cotton Drive by the Pemberton Realty dated August
20th, 1943. It is a rather sketchy one, my lord,
and their valuation at that time was \$2100.00.
10 I put that in as the next exhibit.

(VALUATION MARKED EXHIBIT NO. 7).

MR. HUNTER: As a result of that valuation, my lord,
not sufficient tenders were received in that amount
and a further advertisement was placed in the papers,
in the Vancouver newspapers, on January 22nd, 24th,
and 25th, 1944, and the further valuations which
we mentioned of Johnson, Reeve & Watson was obtained,
and a sufficient offer having been received of
\$1600.00, it was accepted. I would tender the next
20 advertisement.

(ADVERTISEMENT MARKED EXHIBIT NO. 8).

THE COMMISSIONER: For your information, Mr. Cherniack,
Douglas Reeve, who made the two valuations, Exhibits
3 and 4, is one of the recognized real estate ap-
praisers and valuers in Vancouver. Moore's name
is not known to me, though that does not necessarily
mean very much. However, I think if he was at all
outstanding, I would know of him. The Pemberton
firm, of course, is very well known.

30 MR. HUNTER: Am I to assume that the personal property

G. Hayashi,
Cross-Exam.

claim in this case is being dropped?

MR. CHERNIACK: I stated so.

MR. HUNTER: I am sorry, I didn't hear you. I have the correspondence with the city, my lord. My learned friend has already spoken of it, and as a result of it the Custodian was ordered to demolish the rear part of the buildings there, and unless my learned friend is going to dispute it -- the reason I mention it is in the claimant's written statement he indicates that he feels that possibly repairs were in order.

THE COMMISSIONER: I think it is desirable that the correspondence should be filed.

MR. HUNTER: Very well, my lord. The first letter is dated December 16th, 1942. It is from the city electrician's office which says, "Re 236-238 Powell Street. With reference to the premises at the above address, which at the present time are vacant, it will be necessary for us to make an inspection of the electrical wiring before re-connection of the meter is made."

"The power company has been notified not to reconnect this meter until a permit has been received from this department."

The next is a copy of a letter, although a true copy, signed by the building inspector, dated the 5th of February, 1943, from the building department re 236 Powell Street.

"With reference to your inquiry re the condition of the above building."

G. Hayashi,
Cross-Exam.

"In my opinion this building is not fit for habitation but consideration may be given to the front portion.

"An order is to be issued for the demolition of the centre and rear sections."

THE COMMISSIONER: That is signed by whom?

MR. HUNTER: It is signed by Haggard -- Andrew Haggard. The next letter is from the same department, signed by the same person, dated the 25th of February, 1943, re 236 Powell Street, Lot 25, Block 5, D.L. 196.

"I am of the opinion that the centre and rear portion of the building at the above location are by reason of their defective structural condition a source of danger. Notice is therefore given you that you are required under the provisions of Section 22 of the Building By-law to pull down and demolish such buildings on or before the 25th day of March, 1943.

"In the event of your neglecting or refusing to comply with this notice according to the terms thereof I may cause such buildings to be pulled down or demolished and the cost of pulling down or demolishing the same may be recoverable by the City by summary process at law in any Court of competent jurisdiction and shall also be a lien upon such buildings and the materials thereof, and upon the lot or parcel of land upon which the same are erected, and the said cost when certified by me, if not before collected, shall be entered by the City Tax Collector on the Collector's roll next

G. Hayashi,
Cross-Exam.

prepared after the receipt of such certificate, and collected in the same manner as ordinary municipal rates of the City.

"Dated at this 25th day of February, 1943."

While Mr. Haggard signs the letter, it looks as if it had been written by the city solicitor. I would suggest these three letters go in as one exhibit.

(LETTERS MARKED EXHIBIT NO. 9).

THE COMMISSIONER: Do you know what was done? Did the
10 city carry out the demolition orders?

MR. HUNTER: No, the Custodian did it. He called for tenders. Perhaps I shouldn't say that he called for tenders, but he asked for certain tenders from certain people, and he received the bid from one firm which was accepted to demolish the rear and the person demolishing would take the material and pay the Custodian fifty dollars for the material. Perhaps it might be as well to file that, my lord.

THE COMMISSIONER: The net result is it was done at no
20 cost to the claimant, but actually he made a small recovery.

MR. HUNTER: That is correct.

THE COMMISSIONER: Mr. Cherniack, apropos of this demolition, if the Custodian is going to be put to the trouble of calling all these witnesses to justify the demolition, it is going to take some little time and involve some expense. In the circumstances I would like you to discuss the situation with the claimant with a view to your being
30 instructed to make a declaration as to what your

G. Hayashi,
Discussion.

stand will be. In other words, will the Claimant accept the reports that are put in before me, or will the Custodian be required to call evidence to verify these reports? I do not want you to do so right now.

MR. CHERNIACK: I understand, my lord.

THE COMMISSIONER: I will hear from you after lunch.

MR. CHERNIACK: May I ask for the exhibits and any other information my learned friend has on file so I can discuss it with the claimant?

10

THE COMMISSIONER: Yes, that will all be available to you.

What I have in mind is these City Hall departmental officials are all busy men. On the face of it, they are not going to destroy a building unless they consider it imperative in terms of their duty to the city. After discussing it with the claimant, you might be instructed to accept the situation. However, I do not want to force your hand at all, but you will appreciate my purpose in having you discuss it with him.

20

MR. CHERNIACK: I do, your Lordship. In doing that what you are suggesting is that we might be willing to admit that those letters were written and that the building inspector's statements shall be accepted as in the letters. You are not, I gather, at the same time suggesting that we should admit that the Custodian did all he needed to do in connection with his own inspection of the building? What I have in mind there is I don't know whether I would be prepared to recommend to the claimant that he

30

G. Hayashi,
Discussion.

should waive an opportunity to cross-examine the Custodian as to any attempts he made to obtain estimates as to the cost of putting the buildings in a proper state of repair, or anything of that nature.

THE COMMISSIONER: Perhaps that is a matter you might discuss with your friend for the Government in the meantime. I know nothing more of it than I have heard this morning.

10 MR. CHERNIACK: Yes, I will discuss it with both of them, my lord.

MR. HUNTER: As a result of this demolition, my lord, the improvements, or the assessment, insofar as the improvements and land are concerned, gradually came down in 1942. The land assessment was \$3750.00, in 1943 it came down to \$3500.00, and in 1944 it came down to \$3125.00. Similarly with the improvements. They were not reduced in 1943, they were still \$2100.00, but in 1944, the improvements as
20 assessed were reduced to \$800.00. I mention now, my lord, possibly it will come out later in Vancouver, that, generally speaking, assessors prefer to reduce the assessment gradually rather than in
1 one fell swoop.

THE COMMISSIONER: In Vancouver they are not permitted to reduce by more than 10% a year, as I recall it; that is, by Statute.

MR. HUNTER: I see. I don't think there are any questions, my lord.

30 THE COMMISSIONER: Anything further, Mr. Cherniack?

G. Hayashi,
Discussion.

MR. CHERNIACK: May I ask, my lord, that that short appraisal by Pemberton be read into the record? I wasn't given a copy.

THE COMMISSIONER: It was marked as an exhibit, and I think it was read into the record.

10 MR. HUNTER: Now, my lord, for my learned friend's information I think it might be desirable for me to mention now that in many places, and I am sure it is the same in Vancouver, if the amount of the cost to repair a building goes over a certain percentage of the value of the building, it is an economic question to be considered. Possibly he might take that into consideration in consulting with his client.

THE COMMISSIONER: Well I think it is a reasonable assumption to make that no City Building Inspector is going to order a building demolished if it is practicable to repair it or attempt to restore it. However, you can give some thought to that and discuss it with the claimant in the meantime.

20 MR. CHERNIACK: I think the first step is usually to demolish and then they start doing business. It is in Winnipeg, anyway.

THE COMMISSIONER: They do not all operate on the same basis.

(ADJOURNED SINE DIE)

April 22nd, 1948.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

30 MR. CHERNIACK: My lord, yesterday we heard Case No. 5, Gengi Hayashi. My learned friend had filed certain letters from the building inspector of Vancouver,

G. Hayashi,
Discussion.

and your Lordship suggested that the claimant might consider whether he will accept them and waive his right to have the building inspector called as a witness subsequently. That is agreeable to the claimants

THE COMMISSIONER: Very good. That is clear, Mr. Hunter? There is no need for you to call the building inspector to supplement the evidence given, or the material, rather. That is Gengi Hayashi, No. 958. All right, that is cleared up.

(Witness aside)

(PROCEEDINGS ADJOURNED SINE DIE)

I hereby certify the foregoing to be a true and accurate transcript of the proceedings herein.

J. P. Harrobin

"T.P. HORROBIN"
Official Reporter.

DEFENCE BRIEF

Gengi HAYASHI

File No. XI/766

Case No. 958

REAL PROPERTY CLAIMS

<u>1. Real Property Claims</u>	<u>Appraised at</u>	<u>Sold for</u>
Parcel A-236 Powell Street, Vancouver, B.C. (None presented - see below)	\$1000.00	\$1400.00
Parcel B-1819 Cotton Drive, Vancouver, B.C.	\$1400.00-\$1600.00	\$1600.00

Witnesses - Johnson, Reeve and Watson,
appraisers - Parcels A and B.

Note:-

This claim presents a complicated problem. The property is registered in the name of Hanyemon Hayashi, who is now deceased. By his will Hanyemon Hayashi appointed three executors to hold his property in trust, "to pay the annual income thereof to my wife until her death or until such time as my three Trustees in writing agree to a division of my said estate between my wife and my children it being my intention that the time for such division and the amounts into which my estate shall be divided shall be within the absolute discretion of my Trustees: If this division is not made in my wife's lifetime then on my wife's death my surviving Trustees shall have an absolute discretion as to the division of my estate between my children then living as to the amount to be received by each child if more than one but if only one child survive my wife the whole of the trust fund shall then be paid over to him or her as the case may be". The children are not named in the will. Of the three executors, two are now in Japan and the wife, who is the third, is dead. Claimant states that he is one of the sons and the other son resides in Japan. The claimant had been in possession of the two properties and has managed them and paid no rent. The claimant, who was born in Vancouver, has a birth certificate which gives his father's name as Genya Hayashi. Up to this point no proof has been given that Genya Hayashi is Hanyemon Hayashi. It was decided at the hearing that since the will presents a difficult problem in that question of who is entitled must be solved, the Commissioner would hear the evidence with a view to determining whether or not any recommendation should be made. If a recommendation is made the question of who is entitled will be determined later.

The next problem is the amount of the claim. The claimant originally listed the assessed value as the claim. It was decided to leave

the question to the Commissioner whether the prices at which the properties were sold were fair. Hence no specific amount is claimed.

The question seems to be one of valuation only.

Note that the Powell Street property was assessed at \$3925.00 in 1944. The land is assessed at \$125.00 and the buildings \$800.00. This assessment is after part of the building was demolished pursuant to an order of the building inspector. The demolition was ordered March 24th, 1943.

Note also that there was an earlier valuation on 1810 Cotton Drive by Pemberton Realty dated August 20th, 1943 for \$2100.00. This valuation is by one Moore of that firm. It is "rather sketchy" (See page 15 transcript)

Claimant has agreed to waive his right to having the building inspector called as a witness. Pages 16-24.

PERSONAL PROPERTY CLAIMS

This claim has been abandoned. See Page 13 line 13 Transcript.

SUMMARY OF DEFENCE
WITNESSES

Where Required

Name - Johnson Reeve and Watson

1(a)

JLG/ma

Name of Claimant **HAYASHI, Hanyemon & Gengi**

Case **958**

Custodian File

EE.1466 & XI 766

<u>REAL PROPERTY</u>											Total
Greater Vancouver		Rural (except V.L.A.)			V.L.A. (except Mission Village)		V.L.A. Mission Village				
Sale Price	5% thereof & 12.50	Sale Price	10% thereof	Charges 12.50 & Comm.	Sale Price	Total Award 80% of all Sale Prices % of Amount Total	Sale Price	Total Award 125% of all Sale Prices % of Amount Total			
1400	190										175.00
1600	25										
<u>PERSONAL PROPERTY</u>											
Motor Vehicles			Boats and Boat Gear								
Sale Price	25% thereof	Sale Price	Nelson Bros. 23.5% of Sale Price	Other Sales 28.5% of Sale Price	Equipment charges paid to purchasers in error. Repay to owners	Amount of Claims for Boat Gear Declared & Not Found & Recorded Now Missing	45% of amount in next preceding column				
<u>NETS</u>											
Total award for Nets plus Sale Price		Total Claim for Nets Sold, Declared Not Found and Recorded Now Missing			Percentage Total Award to Total Claim		Claim for Nets Sold Declared Not Found, & Recorded Now Missing		Apply % ratio to Claim		Deduct Custodian Sale Price
<u>MISCELLANEOUS CHATTELS</u>											
Claim for goods Sold By Auction	Sale Price of Goods Sold By Auction	Rebates of charges 30% of Sale Price	Ratio in % of Sale Price to Claim	Claim for goods Declared Not Found, Recorded Now Missing, & Sold Not Paid	Applica-tion of % ratio to amount in next preceding column	Sale Price of goods Sold by Tender	12% of Sale Price				
TOTAL RECOMMENDATION											175.00