




City of Richmond

Report to Committee

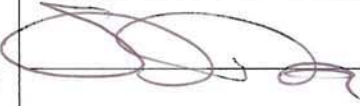
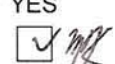
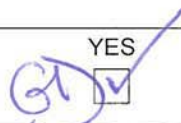
To: Planning Committee **Date:** July 7, 2010
From: Cathryn Volkering Carlile **File:** 08-4057-05/2010
General Manager - Community Services
Re: Request for an Alternative Legal Mechanism to Secure Affordable Housing Units
at 9340-9400 Cambie Road (Remy Development)

Staff Recommendation

That a process be initiated to rescind the Housing Agreement Bylaw for the Remy development at 9340-9400 Cambie Road (Bylaw No. 8406, adopted on February 8, 2010), as described in the report from the General Manager Community Services, dated June 23, 2010, and that the City rely instead on provisions of the Operator's Agreement executed by the British Columbia Housing Management Commission on behalf of the Provincial Rental Housing Corporation to secure the affordable housing units.




Cathryn Volkering Carlile
General Manager - Community Services
(604-276-4068)

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ROUTED TO:		CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Law		Y <input checked="" type="checkbox"/> N <input type="checkbox"/>	
Development Applications		Y <input checked="" type="checkbox"/> N <input type="checkbox"/>	
REVIEWED BY TAG	YES <input checked="" type="checkbox"/> 	NO <input type="checkbox"/>	REVIEWED BY CAO YES <input checked="" type="checkbox"/>  NO <input type="checkbox"/>

Staff Report

Origin

BC Housing has requested the City to consider the use of an alternate legal mechanism to the adopted Housing Agreement Bylaw to secure the affordable housing units in the Remy development at 9340-9400 Cambie Road.

The Remy is being developed by Oris Development (Cambie) Corp. The rezoning application for the project (Rezoning 07-366342 and associated Bylaw Number 8395) received second and third reading at Public Hearing on July 21, 2008 and final adoption on November 26, 2008. A Housing Agreement for 26 affordable housing units was approved by City Council on February 8, 2010.

Prior to the adoption of the Housing Agreement, Oris Development (Cambie) Corp. had been in discussions with BC Housing and SUCCESS regarding the purchase and operation of affordable housing units in the development. The discussions have now concluded, with a total of 81 units of affordable housing being proposed. The units consist of:

- 1) 33 units of affordable rental housing for low-income seniors and persons with a disability that will be purchased by Provincial Rental Housing Corporation (PRHC) and operated by SUCCESS, under the Seniors Rental Housing Initiative (*these units represent a reconfigured arrangement of the 26 units secured through the Housing Agreement*); and
- 2) 48 units for low and moderate income seniors, persons with disabilities, and families facing affordability challenges that will be owned and operated by SUCCESS, and financed through BC Housing, but not affiliated with a Provincial housing program (*these units are independent of the City's Housing Agreement or negotiations*).

BC Housing has requested that the City rescind the Housing Agreement Bylaw for the Remy development, proposing that the affordable housing units to be owned by PRHC be covered by the Operator's Agreement executed by the British Columbia Housing Management Commission ("the Commission") on behalf of the Provincial Rental Housing Corporation. BC Housing contends that this alternate arrangement would be less cumbersome for all parties involved, reduce duplication, and continue to ensure that the affordable housing objectives of the City and PRHC are satisfied. A letter is on file from Oris Development confirming that the developer is aware of and supportive of the proposed change.

The purpose of this report is to review BC Housing's request. It responds to Council's adopted term goal:

Improve the effectiveness of the delivery of social services through the development and implementation of a Social and Community Services Strategy that includes increased social housing, implementation of the campus of care concept and an emergency shelter for women.

Findings of Fact

In accordance with the Richmond Affordable Housing Strategy, 26 affordable housing units were secured at the Remy through a Housing Agreement. Independent of the City's requirements, BC Housing, Oris Development, and SUCCESS have negotiated the provision of 81 affordable housing units at the Remy through the Seniors Rental Housing Initiative, including:

1. 33 units purchased by Provincial Rental Housing Corporation to be operated by SUCCESS, and
2. 48 units financed by BC Housing and to be owned and operated by SUCCESS.

The PRHC mandate is to own land and buildings for social housing on behalf of the Provincial Government. On behalf of the PRHC, BC Housing is charged with and assumes responsibility for the management, operation, and administration of lands and improvements at the Remy Development.

The terms and conditions of the Operator's Agreement executed for the 33 units purchased by PRHC defines the roles and responsibilities of BC Housing and SUCCESS. The Operator's Agreement is not registered on title, but is secured through the assurance of the PRHC mandate. The agreement will ensure the following:

- BC Housing's affordability requirements are upheld for the 33 affordable housing units.
- The units will be secured for an initial period of 10 years with automatic renewal every 10 years up to 60 years.
- BC Housing is to conduct on-site, operational reviews to determine compliance with the terms of the agreements.

To secure the 33 affordable housing units at the Remy in a consistent legal manner, and to satisfy its program funding criteria, BC Housing is requesting that the City consider rescinding the existing Housing Agreement, relying instead on the Operator's Agreement executed on behalf of the PRHC.

Analysis*Assessment*

In accordance with rezoning conditions for the Remy, a density bonus was granted to Oris Development in exchange for the provision of 26 on-site affordable units secured through a Housing Agreement and registered on title. The following table compares the key elements of the Commission's Operator's Agreement and the City's Housing Agreement to assess the implications of reliance on the Operator's Agreement to secure the units.

	British Columbia Housing Management Commission Operator's Agreement	Housing Agreement	Implications of reliance on the BC Housing Operator's Agreement to Secure the Units
Units	33 affordable rental units for seniors and persons with disabilities	26 low end market rental units	Units are affordable for low income households
Rent Requirements	Rent is calculated with a Rent Geared to Income (RGI) formula based on 30% of the household's income.	Maximum monthly rent rates are defined by the Richmond Affordable Housing Strategy	Rates are calculated with an RGI formula rather than set at maximum levels. Rates fall within the Strategy requirements.
Income Threshold	Income criteria accounts for occupancy standards and the cost of housing in the local community, without tenants having to pay over 30% of their income on shelter costs.	Total Household Income is defined by the Richmond Affordable Housing Strategy	Income levels fall within the Strategy requirements.
Agreement:	Operator's Agreement is not registered on title. Security is assured through the Provincial Rental Housing Corporation mandate to provide affordable housing.	Housing Agreement is registered on title.	Operator's Agreement restricts the property use as affordable, while securing the PRHC commitment and mandate to provide affordable housing.
Length of Term:	60 Years Secured for an initial period of 10 years with automatic renewal every 10 years up to 60 years.	Perpetuity	60 years is the equivalent of the economic life of a building.

Staff acknowledge that the Housing Agreement is the only legal mechanism that the City has to ensure rental restrictions and security of terms. BC Housing's request to replace the Housing Agreement with the Operator's Agreement represents a variation to the City's established process. Considerations both for and against the request are summarized below.

Considerations in Favour:

- The units will be owned by the Provincial Rental Housing Corporation, a Senior Level Government holding company established to own land and buildings for the provision of social housing.
- The Operator's Agreement terms and conditions meet the City's requirements.
- The units will be secured and operated as affordable rental units for low income households.
- The rent geared to income formula utilized for the units is more restrictive than the City's criteria (i.e. tenants are required to meet the BC Housing income and rent requirements for low income households to determine initial and on-going eligibility).

Counter Considerations:

- The Housing Agreement will be released from the title of the 26 units.
- The alternative mechanism represents a departure from the Affordable Housing Strategy requirements and conditions to secure affordable housing units negotiated through City rezoning processes.
- The units are secured for 60 years rather than in perpetuity.

Although the BC Housing request is an alternative approach, staff conclude that the intent and purpose to secure the 33 units with the Operator's Agreement is consistent with the objectives of the Affordable Housing Strategy.

Given the PRHC mandate, the organization can be expected to fulfill its commitment to fund and secure the units as affordable housing in the longer term. With respect to securing contractual rights, however, the replacement of the City's Housing Agreement with the Commission's Operator's Agreement would release the City of contractual rights vis-à-vis BC Housing, PRHC, the developer, any subsequent owner, tenant and/or against the units.

To partially address this, BC Housing has agreed to provide a letter of commitment whereby it would consult with the City in event of default on or modification to the Operator's Agreement, seek the City's input regarding a replacement society to operate the units, and continue to ensure that the units address the City's and PRHC's affordable housing objectives over the longer term.

Municipal Process:

Compliance with BC Housing's request would represent a change in the rezoning conditions for the Remy. In order to proceed with further consideration to the request, the following would need to occur:

1. Council would need to authorize staff to begin the process required to rescind Housing Agreement Bylaw No. 8406,
2. A zoning text amendment to ZLR22 would be required to redefine the affordable housing density bonus provisions for this site specific zoning district,

3. Staff would need authorization to take necessary steps to initiate a statutory public hearing on the proposed zoning amendment,
4. A separate staff report from the Director of Development would bring forward the zoning text amendment for Council consideration,
5. Council would review the proposed zoning amendments through a requisite public hearing process,
6. City staff would ensure the alternative security proposed by BC Housing, including City conditions, are in place prior to final adoption of the zoning text amendment, and
7. Subject to Final Adoption of the zoning text amendment, City staff would bring forward a brief report to seek final Council authorization to discharge Housing Agreement Bylaw No. 8406.

Financial Impact

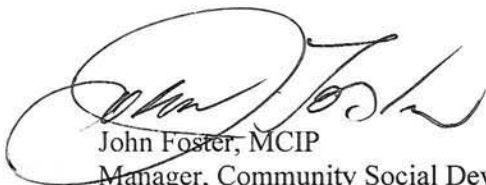
The recommendation will not generate a financial impact for the City, as all legal costs associated with the zoning text amendment will be the applicant's sole responsibility.

Conclusion

Staff have reviewed the BC Housing request to change the terms and legal mechanism to secure the affordable housing units in the Remy. Upon assessment, we conclude: 1) the proposal to secure the 33 BC Housing owned units aligns with the objectives of the Affordable Housing Strategy; 2) the Operator's Agreement is comparable in purpose and function to the City's Housing Agreement; and 3) acknowledging the PRHC's mandate is to develop land and buildings for the provision of affordable housing, the commitment to maintain the units as affordable will be upheld.

A key consideration in reaching this conclusion was the unique circumstances of the Remy development, most importantly, the provision of 81 rather than 26 units of affordable housing. The decision should not be viewed as setting a precedent. If similar requests are made in the future, they would need to be assessed on a case-by-case basis, evaluated on their own merits and in accordance with Affordable Housing Strategy objectives.

It is thus recommended that a process be initiated to rescind the Housing Agreement Bylaw for the Remy development at 9340-9400 Cambie Road, relying instead on the Commission's Operator's Agreement to secure the affordable housing units on behalf of PRHC.



John Foster, MCIP
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Dena Kae Beno
Acting Affordable Housing Coordinator
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BC Housing

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Dear Cathryn,

As you are aware, BC Housing has been working in collaboration with Oris Developments on the Remy Project located at 9388 Cambie Road, Richmond. We also understand that the Remy project as part of their rezoning considerations requires an Affordable Housing Agreement.

Subsequent to the original terms of this agreement being crafted, BC Housing has been working with Oris to create 81 units under the Seniors Rental Housing Initiative Program. The project includes the Provincial Rental Housing purchase of 33 units in the building. These units would fall within the rental rate and income criteria set forth in the Richmond Housing Agreement. These units will be operated by SUCCESS, a local community group and would be governed by a 60 year Operator Agreement that sets out rental rates, income testing criteria and tenant population of seniors and people with disabilities. In addition, these units are filled directly through the BC Housing Registry program.

The remaining 48 units will be owned and operated by SUCCESS. These units would be available for low to moderate income singles and families. The rental rates of these units would be above the rental rates and income levels in the Richmond Housing Agreement but are still below comparable market units in the City of Richmond. Furthermore, a 60 year Operating Agreement that ensures income testing and rental requirements are met by the Society will be in place. Under our program and mandate the SUCCESS units will also have a s219 covenant on title to restrict the use and meet BCH's mandate for affordable housing that would run the length of the operating agreement.

In addition, the Remy development includes 37 affordable home ownership units that were financed through BC Housing. These units will be secured through a s219 covenant that restricts sale to qualified purchasers who are defined by Canada Mortgage and Housing Corporation as individuals with low to moderate incomes.

We would therefore, like the City of Richmond to consider replacing the Affordable Housing Agreement with BCH's restrictive covenants as the tool for ensuring the City of Richmond's affordable housing requirements are exceeded for the Remy development.

Our intention is to continue to collaborate with the City, non-profit societies and developers on not only the Remy project but future affordable housing projects as well.

Yours sincerely,

Armin Amrolia
Executive Director,
Regional Development
BC Housing

cc: John Foster, Manager Community Services, City of Richmond
Raymond Kwon, Manager, Regional Development, BC Housing
Naomi Brunemeyer, Senior Project Officer, Regional Development, BC Housing

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