

CITY OF SURREY

BY-LAW NO. 14504

A by-law to authorize the City of Surrey to enter into a housing agreement  
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WHEREAS the City of Surrey has received an application to enter into a housing agreement

AND WHEREAS Section 905 of the Local Government Act, R.S.B.C. 1996 c.323, as amended (the "*Local Government Act*"), empowers the Council or the City of Surrey to enter into a housing agreement;

NOW, THEREFORE, the Council of the City of Surrey, in open meeting assembled, ENACTS AS FOLLOWS:

1. The City of Surrey is hereby authorized and empowered to enter into a housing agreement in the form attached hereto as Schedule A and forming part of this By-law (the "Housing Agreement") with the following party:

HUNTER HILL HOUSING COOPERATIVE  
(Incorporation Number 52129)  
Suite 201 - 1646 West 7<sup>th</sup> Avenue  
Vancouver, British Columbia  
V6J 1S5

and with respect to that certain parcel or tract of lands and premises, situate lying and being in the City of Surrey, in the Province of British Columbia and being more particularly known and described as:

Parcel Identifier: 007-377-193  
South Half Lot 12, Except: Part Dedicated Road on Plan LMP46645,  
Section 18, Township 2, New Westminster District, Plan 2285

(6935 - 122 Street)

(the "Lands")

2. The Mayor and Clerk are hereby empowered to execute the Housing Agreement on behalf of the City of Surrey.
3. The City of Surrey shall file in the Land Title Office a notice against the Lands in accordance with Section 905 of the Local Government Act, that the Lands are subject to the Housing Agreement.
4. This By-law shall be cited for all purposes as "Hunter Hill Housing Cooperative Authorization By-law, 2001, No. 14504".

PASSED THREE READINGS on the 4th day of September, 2001.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 17th day of September, 2001.

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MAYOR

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CLERK

**HOUSING AGREEMENT**

THIS AGREEMENT dated for reference the 31 day of July, 2001.

BETWEEN:

**HUNTER HILL HOUSING COOPERATIVE**

(Incorporation Number 52129) a society incorporated under the laws of British Columbia and having an address at Suite 201 – 1646 West 7th Avenue, Vancouver, British Columbia, V6J 1S5

(the "Owner")

AND:

**CITY OF SURREY**, a municipality incorporated under the *Local Government Act* and having its address at 14245 – 56th Avenue, Surrey, British Columbia, V3X 3A2

(the "City")

**BACKGROUND:**

- A. The Owner is leasing the Land (as hereinafter defined) from PRHC (as hereinafter defined) and intends to construct and operate a residential housing development thereon for social housing purposes.
- B. The Owner has requested the City to issue a Development Variance Permit to reduce the required number of parking stalls for the residential housing development from 89 stalls to 82 stalls.
- C. It is a condition of the issuance of the required Development Variance Permit that the parties enter into this agreement in order to restrict the occupancy of the residential housing development as provided in this Agreement.
- D. Section 905 of the *Local Government Act* authorizes the City, by bylaw, to enter into this Agreement.

NOW WITNESSETH that in consideration of the premises and of the respective covenants and agreements of the parties as hereinafter set out and the sum of ONE (\$1.00) DOLLAR other good and valuable consideration paid by the City to the Owner (the receipt and sufficiency of which are hereby acknowledged), the parties covenant and agree with each other as follows:

**Definitions**

1. In this Agreement:

“Affordable Housing” means housing that is operated on:

- (a) a cooperative basis by a housing cooperative incorporated under the *Cooperative Association Act* (British Columbia); or
- (b) a not-for-profit basis by a society incorporated under the *Society Act* (British Columbia), a government organization or any other entity of a not-for-profit nature.

“BCHMC” means British Columbia Housing Management Commission.

“Land” means the land in the City of Surrey legally described as:

P.I.D.: 007-377-193  
South Half Lot 12, Except: Part Dedicated Road on Plan LMP46645, Section 18,  
Township 2, New Westminster District, Plan 2285

“Operating Agreement” means an agreement entered into from time to time between the Owner and BCHMC which provides, amongst other things, for BCHMC to subsidize the Owner’s cost of operating the housing project located on the Land.

“PRHC” means Provincial Rental Housing Corporation.

**Interpretation**

2. Reference in this Agreement to:

- (a) the singular includes a reference to the plural and a reference to the plural includes a reference to the singular;
- (b) a “party” is a reference to a party to this Agreement;
- (c) a particular numbered “article” or “section” or a particular lettered “schedule” is a reference to the corresponding numbered or lettered article, section or schedule of this Agreement; and
- (d) an “enactment” is a reference to an enactment as defined in the *Interpretation Act* and is a reference to any revision, amendment or re-enactment for, or replacement for, that enactment.

**Use of Land**

3. The Owner agrees that the Land may be used only in accordance with the following conditions:
  - (a) the Land shall not be further subdivided by subdivision plan, strata plan, lease or otherwise, and no application for its further subdivision may be made by the Owner or anyone else;
  - (b) the Land shall be used only for construction, use and occupation of Affordable Housing; and
  - (c) the Affordable Housing shall be used, occupied and administered in accordance with and pursuant to an Operating Agreement.

**Determination of Affordable Housing**

4. For the purposes of Section 3, the City may, acting reasonably, determine whether the Land is being used for Affordable Housing, and the City's determination is conclusive for the purposes of this Agreement, provided that if the use of the Land is in accordance with the then-existing Operating Agreement and any other requirements of BCHMC, it is deemed to be used for Affordable Housing.

**Public Interest Issues**

5. The City and the Owner agree that given the public interest in the ongoing use of the Land for Affordable Housing and the corresponding need for effective protection against breaches of this Agreement, the public interest strongly favours an order for specific performance or a prohibitory or mandatory injunction in favour of the City in respect of any breach by the Owner of this Agreement.

**Waiver**

6. An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

**Severance**

7. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.

**Binding Effect**

8. This Agreement binds the parties to it and their respective successors and assigns.

**Deed and Contract**

9. By executing and delivering this Agreement, each of the parties intends to create both a contract and a deed executed and delivered under seal.

**Liability During Ownership**

10. The Owner is only liable for breaches of this Agreement that occur while the Owner is leasing the Land pursuant to a registered ground lease.

**Notice on Title**

11. The Owner acknowledges that, pursuant to Section 905(5) of the *Local Government Act*, the City shall file in the Land Title Office a notice that the Land is subject to this Agreement, and that, once the notice is filed, this Agreement is binding on all persons who acquire an interest in the Land.

**Amendment and Termination**

12. This Agreement may not be modified or amended except by bylaw of the City with the consent of the Owner. This Agreement may be terminated or discharged by the City without the consent or agreement of the Owner.

**Headings**

13. The division of this Agreement into articles, sections and schedules is for convenience of reference only and does not affect its interpretation. The article and section headings used in this Agreement are for convenience of reference only and do not affect the interpretation of this Agreement.

**Entire Agreement**

14. This is the entire agreement between the parties concerning its subject and supersedes and terminates all other agreements, understandings and promises concerning its subject.

**Joint and Several**

15. In the case of more than one Owner, the grants, covenants, conditions, provisos, agreements, rights, powers, privileges and liabilities of the Owner shall be construed and held to be several as well as joint.

**Governing Law**

16. This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

**No Joint Venture**

17. Nothing in this Agreement shall constitute the Owner as the agent, joint venturer or partner of the City or give the Owner any authority or power to bind the City in any way.

**Time of Essence**

18. Time is of the essence of this Agreement.

**Further Assurances**

19. The parties shall execute and do all such further deeds, acts, things and assurances as they reasonably require to carry out the intent of this Agreement.

**HUNTER HILL HOUSING COOPERATIVE**

Per: Stacey Whalley  
STACEY WHALLEY, PRESIDENT + DIRECTOR

Per: Gail Miller  
GAIL MILLER, DIRECTOR

**CITY OF SURREY**

Per: \_\_\_\_\_

Per: \_\_\_\_\_