

CITY OF SURREY

BY-LAW NO. 15681

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 parties:

659559 B.C. LTD. (Incorporation No. 659559)  
6734 King George Highway  
Surrey, B.C.  
V3W 4Z5

AND

PETER AND FRANCINE BRISSON  
1650 - 140 Street  
Surrey, B.C.  
V4A 4G9

and with respect to those certain parcels or tracts 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 No. 011-252-766  
Lot 3 Section 16 Township 1 New Westminster District Plan 6915

1630 - 140 Street

Parcel Identifier No. 011-252-791  
Lot 4 Section 16 Township 1 New Westminster District Plan 6915

1640 - 140 Street

Parcel Identifier No. 011-252-812  
Lot 5 Section 16 Township 1 New Westminster District Plan 6915

1650 - 140 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 "659559 B.C. LTD. Housing Agreement, Authorization By-law, 2005, No. 15681".

PASSED THREE READINGS on the 28th day of February, 2005.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 27th day of July, 2006.

\_\_\_\_\_ MAYOR

\_\_\_\_\_ CLERK

**HOUSING AGREEMENT**

This agreement made the 28<sup>th</sup> of January, 2005.

**BETWEEN:**

**659559 B.C. LTD. (Incorporation No. 659559)**  
6734 King George Highway  
Surrey, BC, V3W 4Z5

(the "Grantor")

PARTY OF THE FIRST PART

**AND:**

**CITY OF SURREY**, A City under the Local Government Act of the Province of British Columbia, and having its City Offices at 14245 56<sup>th</sup> Avenue, in the City of Surrey, in the Province of British Columbia,  
V3X 3A2

(the "City")

PARTY OF THE SECOND PART

**WHEREAS:**

A. The Grantor is the registered owner of those lands and premises in the City of Surrey, in the Province of British Columbia, more particularly known and described as:

NO PID NO.  
Lot 1 Sec 16 Tp 1 NWD Plan BCP \_\_\_\_\_

(the "Lands")

B. The Grantor proposes to develop the Lands with buildings having residential units for occupancy by Qualified Occupants.

C. The Grantor has requested the City to issue a Development Permit reducing the required number of parking stalls pursuant to Part 5, Table C.6 of Surrey Zoning By-law, 1993, No. 12,000 as amended and it is a condition of the issuance of the said permit that the Grantor enter into this Agreement in order to restrict the occupancy of the building located on the Lands as provided in this agreement.

D. Section 905 of the Local Government Act, R.S.B.C. 1996, Chapter 323, as amended, authorizes the City, by by-law to enter into a housing agreement.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of ONE (\$1.00) DOLLAR now paid to the Grantor and the City (the receipt and sufficiency of which is hereby acknowledged) each to the other, the parties hereto covenant and agree as follows:

**1. Defined Terms and Schedules**

1.1 In and for the purposes of this Agreement, the following terms shall have the following respective meanings:

- a) "Caregiver" shall mean a person, other than a spouse of a Qualified Occupant, who resides in a Housing Unit primarily for the purpose of providing ongoing living assistance and care to a Qualified Occupant and "Caregivers" means all persons who qualify as a Caregiver;
  - b) "Housing Unit" means any dwelling unit constructed by the Grantor upon the Lands but does not include a Resident Manager's Housing Unit;
  - c) "Person with Disability" means a person who, in the written opinion of a medical doctor or registered psychologist, has a significant permanent disability that cannot be significantly permanently improved by medical treatment, and that produces a loss or impairment of physical or mental ability;
  - d) "Qualified Occupant" means Seniors and Persons with Disabilities and "Qualified Occupants" means all persons who qualify as a Qualified Occupant;
  - e) "Resident Manager" means a person employed by the Grantor to manage the Housing Units, who resides in a Resident Manager's Housing Unit and his or her spouse and children;
  - f) "Resident Manager's Housing Unit" means a Housing Unit occupied by the Resident Manager;
  - g) "Senior" means a person who is at least 65 years of age, and includes a person who resides with that person;
  - h) "Spouse of a Qualified Occupant" means a person living in a spousal relationship with a Qualified Occupant and includes a person who was a spouse of a Qualified Occupant who resided in a Housing Unit at the time of the Qualified Occupant's death and "Spouses of Qualified Occupants" means all persons who qualify as a spouse of a Qualified Occupant;
  - i) "Term" means the period commencing on the date of this Agreement and continuing in full force and effect in perpetuity; and
  - j) "this Agreement" means this housing agreement and any amendments or modifications of the same.
- 1.2 The captions, section numbers and article numbers appearing in this Agreement are inserted for convenience of reference and shall in no way define, limit, construe or describe the scope or intent on this Agreement or in any way affect this Agreement.
- 1.3 Words importing the singular number only shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter genders and words importing person shall include firms and corporations and vice versa.
- 1.4 Unless otherwise stated, a reference in this Agreement to a numbered or lettered article, section, paragraph or clause refers to the article, section, paragraph or clause being that number or letter in this Agreement.
- 1.5 The words hereof, hereunder and similar expressions used in any section, paragraph or clause of this Agreement shall relate to the whole of this Agreement and not to that section, paragraph or clause only unless otherwise expressly provided.

## **2. Occupancy of Units Restricted to Qualified Occupants**

- 2.1 During the Term, no Housing Unit other than a Residential Manager's Housing Unit may be occupied by any person who is not a Qualified Occupant, a Spouse of the Qualified Occupant or a Caregiver. The City may from time request the Grantor to provide written proof of compliance with this paragraph and the Grantor agrees to provide the City with such proof in a form reasonable satisfactory to the City.
- 2.2 If the Grantor fails to enforce compliance with the terms and conditions of clause 2.1, then it is specifically understood and agreed that the City shall be entitled, but no obliged, to enforce the terms and conditions of Section 2.1. Further, the Grantor without the need of further authorization, writings or documents, hereby irrevocably appoints the City as its or their agent with respect to the enforcement of this Agreement and with respect to exercising all remedies set out in this Agreement and all other remedies available at law to the Grantor.
- 2.3 Without limiting the provisions of clause 2.2 above, the City shall be entitled to charge, and the Grantor agrees to pay for each Housing Unit, a monthly charge equal to the average monthly fair market rental rate for dwelling units of similar size in the City of Surrey as determined from time to time by the British Columbia Housing Management Commission, for each month or portion thereof during which a Housing Unit is occupied by a person other than a Qualified Occupant, Spouses of Qualified Occupants, Caregivers or a Resident Manager.

## **3. Liability**

- 3.1 The Grantor, Qualified Occupants, Spouses of Qualified Occupants, Caregivers and Resident Managers will indemnify and save harmless the City and each of its elected officials, board members, officers, directors, employees and agrees and their respective administrators, successors and assigns, of and from all claims, demands, actions, loans, damages, costs and liabilities, which all or any of them shall or may be liable for or suffer or incur or be put to by reason of or arising out of the failure of any person to comply with the terms and conditions of this Agreement.
- 3.2 Provided the City is in compliance with terms and conditions of this Agreement, the Grantor, Qualified Occupants, Spouses of Qualified Occupants, Caregivers and Resident Managers hereby release and forever discharge the City and each of its elected officials, board members, officers, directors, employees and agrees and their respective administrators, successors and assigns, of and from all claims, demands, loans, damages, economic loss, costs and liabilities, which all or any of them now has or hereafter may have with respect to or arising out of the fact that the Lands are encumbered by and affected by this Agreement.

## **4. Subdivision**

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 without the prior written consent of the City.

**5. Notices**

Any notices or other documents to be given or delivered pursuant to this Agreement will be addressed to the proper party and the address stated on page 1 of this Agreement or such other address in the Greater Vancouver area as a party may direct by five (5) business days notice in writing to the other party. Any notice or other document to be given or delivered pursuant to this Agreement will be sufficiently given or delivered if delivered to the particular party at its address set out or determined in accordance with this paragraph and shall be deemed complete two (2) days after the day of delivery.

It is specifically agreed that for any notice or document to be validly given or delivered pursuant to this Agreement such document or notice shall be delivered and not mailed.

**6. General**

**6.1 Nothing in this Agreement:**

- a) affects or limits any discretion, rights, powers, duties or obligations of the City under any enactment or at common law, including in relation to the use or subdivision of land; or
- b) relieves the Grantor, Qualified Occupants, Spouses of Qualified Occupants, Caregivers and Resident Managers from complying with any enactment, including the City's by-laws, in relation to the use or subdivision of the Lands.

**6.2** An alleged waiver by a party of any breach by another party of its obligations under Agreement will be effective only if it is an express waiver of the breach in writing. No waiver of a breach of this Agreement is deemed or construed to be consent or waiver of any other breach of this Agreement.

**6.3** Time is of the essence in this Agreement. If any party waives this requirement, that party may reinstate it by delivering notice to the other party.

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

**6.5** If a court of competent jurisdiction finds that any part of this Agreement is invalid, illegal or unenforceable, 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.


**6.6** Upon request of the City, the Grantor, Qualified Occupants, Spouse of Qualified Occupants, Caregivers or Resident Managers (as the case may be), will promptly do such further acts and execute such documents as the City may reasonable require, in the opinion of the city, to give effect to this Agreement.

**6.7** This is the entire Agreement between and among the parties concerning the subject matter of this Agreement and there are no warranties, representations, conditions or collateral agreements relating to this Agreement, except as included in this Agreement.

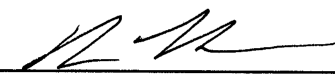
**6.8** This agreement may be enforced by prohibitory and mandatory court order of the Court. In any action to enforce this Agreement, the City shall be entitled to Court costs on a solicitor and own client basis.

- 6.9 This Agreement shall be binding upon and enure to the benefit of the respective parties hereto, their heirs, executors, successors, trustees, administrators and assigns.
- 6.10 It is mutually understood and agreed by and between the parties hereto that this Agreement and covenants herein contained shall be construed as running with the Lands.
- 6.11 The Grantor covenants and agrees to obtain from any prospective Qualified Occupant, Spouse of Qualified Occupant, Caregiver and Resident Manager, tenant or other transferee of the Lands, an agreement to be bound by the terms of this Agreement as they relate to that person.
- 6.12 In the event that the herein property becomes part of a strata plan:
- a) this Agreement shall also charge and run with each and every strata lot into which the Lands are subdivided; and
  - b) this Agreement shall also charge and run with the common property and shall be binding upon the Strata Corporation and all parties claiming through the Strata Corporation.
- 6.13 Upon transfer of the Lands, the party transferring the Lands shall no longer be liable for any default in performance or observance of this Agreement occurring after such party ceases to hold any ownership in the Lands or strata lots located in the Lands.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

  
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**ROY CAMMACK**, Notary Public  
 #106 – 1656 Martin Drive  
 Surrey, BC, V4A 6E7

**659559 B.C. Ltd.** by its  
 authorized signatory

  
 \_\_\_\_\_  
 Name: Ron Henderson

**CITY OF SURREY** by its  
 authorized signatory

\_\_\_\_\_  
**MURRAY DINWOODIE**  
 PLANNING AND DEVELOPMENT  
 DEPARTMENT

\_\_\_\_\_  
**MARGARET JONES, CITY CLERK**

(AS TO SIGNATURE OF CITY CLERK)