

CITY OF SURREY

BY-LAW NO. 19461

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 483 of the Local Government Act, R.S.B.C. 2015 c. 1, 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:

Prime Time (Abby Lane) Inc.
1012 – 120 Adelaide Street West
Toronto, ON M5H 1T1

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: 029-955-661
Lot 1 Section 14 Township 1 New Westminster District Plan EPP29206

15333 16 Avenue

(the "*Lands*")

2. The Mayor and Clerk are hereby empowered to execute the Housing Agreement on behalf of the City of Surrey.

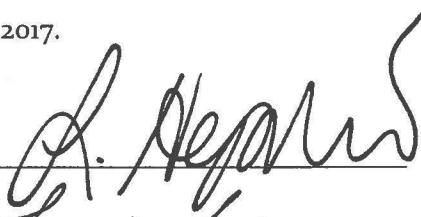
3. The City of Surrey shall file in the Land Title Office a notice against the Lands in accordance with Section 483 of the *Local Government Act*, that the Lands are subject to the Housing Agreement.
4. This Bylaw shall be cited for all purposes as "Prime Time (Abby Lane) Inc. Housing Agreement, Authorization By-law, 2017, No. 19461"

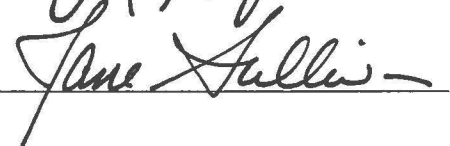
PASSED FIRST READING on the 4th day of December, 2017.

PASSED SECOND READING on the 4th day of December, 2017.

PASSED THIRD READING on the 4th day of December, 2017.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 18th day of December, 2017.





MAYOR

CLERK

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HOUSING AGREEMENT

THIS AGREEMENT is made as of the 19 day of December, 2017.

BETWEEN:

PRIME TIME (ABBY LANE) INC. [Incorporation #BC0967476]

#1202 - 120 Adelaide Street West, Toronto, Ontario (M5H 1T1)

(the "Owner")

OF THE FIRST PART

AND:

CITY OF SURREY

13450 104 Avenue, Surrey, British Columbia (V3T 1V8)

(the "City")

OF THE SECOND PART

WHEREAS:

- A. The Owner is the current registered owner of those certain lands and premises located at 15333 - 16 Avenue, Surrey, BC

PID 029-955-661, Lot 1 Section 14 Township 1 New Westminster District Plan EPP29206

(the "Lands");
- B. The Owner proposes to develop the Lands with a residential retirement facility comprised of 28 condominium independent living units, 32 rental independent living units, 58 rental independent living units allowing some assisted living care services and a community care rental facility of up to 63 units for a total of up to 181 units for occupancy by Qualified Occupants (as hereinafter defined) and 2 units for occupancy by guests of Qualified Occupants (as hereinafter defined) (the "**Development**").
- C. The Owner has requested the City to amend Development Permit No. 7906-0454-00 and to rezone the Lands to permit a seniors residential retirement and community care facility and it is a condition of approving the relevant Development Permit and rezoning that the parties enter into this Agreement in order to restrict the occupancy of every Independent Living Unit and Community Care Facility Unit (as hereinafter defined) to be constructed on the Lands.
- D. Section 483 of the *Local Government Act*, R.S.B.C. 2015 c. 1, as amended, authorizes the City, by by-law to enter into a housing agreement and file a notice of same in the Land Title Office following which the housing agreement is binding on all persons who acquire an interest in the land affected by that agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises, the respective covenants and agreements of the Parties as hereinafter set out and the sum of \$1.00 and other good and valuable consideration paid by the City to the Owner (the receipt and sufficiency of which is hereby acknowledged), the Parties hereto covenant and agree each with the other as follows:

1. **DEFINED TERMS**

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

- (a) "**CCALA**" means the *Community Care and Assisted Living Act, S.B.C., 2002, c.75*, as amended;
- (b) "**Community Care Facility Unit**" means each of the 63 units / beds of the Development to be constructed by the Owner upon the Lands that will be available to a Qualified Occupant and designated as a "community care facility" as defined by the *CCALA*;
- (c) "**Guest Housing Unit**" means each of the 2 dwelling units of the Development to be constructed by the Owner upon the Lands that will be available for occupancy by guests of a Qualified Occupant;
- (d) "**Independent Living Unit**" means each of the 28 strata lots comprising independent dwelling units, 32 rental independent living units and 58 rental assisted living units of the Development to be constructed by the Owner upon the Lands that will be available to a Qualified Occupant;
- (e) "**Qualified Occupant**":
 - [i] With respect to an Independent Living Unit means a Senior (as hereinafter defined) and all persons who qualify as a Spouse of a Qualified Occupant of an Independent Living Unit with respect to an Independent Living Unit; and
 - [ii] With respect to a Community Care Facility Unit means a Senior (as hereinafter defined) who is a "person in care" as defined in the *CCALA*.
- (f) "**Senior**" means a person who is at least 55 years of age; or a person who is deemed to be physically disabled by a doctor and therefore requires the same type of living facility as if 55 years of age or older;
- (g) "**Spouse of a Qualified Occupant of an Independent Living Unit**" means a person living in a spousal relationship with a Qualified Occupant and includes a person who was the spouse of a Qualified Occupant who resided in an Independent Living 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 of an Independent Living Unit;
- (h) "**Term**" means the period commencing on the date of this Agreement and continuing in full force and effect in perpetuity or until this agreement is set aside by the mutual consent, in writing, of the Parties or by the operation of law; and
- (i) "**this Agreement**" means this Housing Agreement, and any amendments or modifications of same.

2. **OCCUPANCY OF UNITS RESTRICTED TO QUALIFIED OCCUPANTS**

- 2.1 During the Term, no Independent Living Unit (other than a Guest Housing Unit) may be occupied by any person who is not a Qualified Occupant or a Spouse of a Qualified Occupant of an Independent Living Unit, and no Community Care Facility Unit (other than a Guest Housing Unit) may be occupied by any person who is not a Qualified Occupant. The City may from time to time request the Owner to provide written proof of compliance with this paragraph and the Owner agrees to provide the City with such proof in a form reasonably satisfactory to the City.
- 2.2 If the Owner fails to enforce compliance with the terms and conditions of paragraph 2.1, then it is specifically understood and agreed that the City shall be entitled, but shall not be obliged, to enforce the terms and conditions of this Agreement as against the Owner or against any person who is not a Qualified Occupant of an Independent Living Unit or Community Care Facility Unit. For the purpose of this Agreement, the Owner, without the need of further authorization, writings or documents, hereby irrevocably appoints the City as its agent with respect to the enforcement of this Agreement as against any person who is not a Qualified Occupant of an Independent Living Unit or Community Care Facility Unit and with respect to exercising all remedies set out in this Agreement and all other remedies available at law to the Owner as against such person or persons.

3. **LIABILITY**

- 3.1 The Owner will indemnify and save harmless the City and each of its elected officials, board members, officers, directors, employees and agents and their respective administrators, successors and assigns, of and from all claims, demands, actions, liens, 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 including but not limited to allowing or acquiescing to the occupancy of an Independent Living Unit or Community Care Facility Unit by a person other than a person or persons qualified to occupy an Independent Living Unit or Community Care Facility Unit under the terms of this Agreement.
- 3.2 Provided the City is in compliance with the terms and conditions of this Agreement, the Owner hereby releases and forever discharges the City and each of its elected officials, board members, officers, directors, employees and agents and their respective administrators, successors and assigns, of and from an and all claims, demands, loans, damages, economic loss, costs and liabilities which any of them now has or hereafter may have with respect to or by reason of or arising out of the fact that the Lands are being encumbered by and affected by this Agreement.

4. **NOTICES**

- 4.1 Any notices or other documents to be given or delivered pursuant to this Agreement will be addressed to the property party as follows:

[a] as to the City:

13450 - 104th Avenue Surrey, B.C. (V3T 1V8) Attention: General Manager of Planning and Development Department;

[b] as to the Owner:

#1202 - 120 Adelaide Street West Toronto, Ontario (M5H 1T1);

or such other address as such 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 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 documents or notice shall be delivered and not mailed.

5. GENERAL

5.1 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 Owner, 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, save as excepted in this Agreement.
- 5.2 An alleged waiver by a party of any breach by another party of its obligations under this 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 a consent or waiver of any other breach of this Agreement.
- 5.3 Time is of the essence in this Agreement. If any party waives this requirement, that party may reinstate it by delivering notice to another party.
- 5.4 This Agreement shall be construed in accordance with and governed by the law of the Province of British Columbia.
- 5.5 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.
- 5.6 Upon request by the City, the Owner, Qualified Occupants or Spouses of Qualified Occupants will promptly do such acts and execute such documents as the City may reasonably require, in the reasonable opinion of the City, to give effect to this Agreement.
- 5.7 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.
- 5.8 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.
- 5.9 This Agreement shall ensure to the benefit of and be binding upon the Owner and its successors, trustees and assigns and all parties claiming through them and this Agreement shall ensure to the benefit of and be binding upon the City and its administrators, successors and assigns.
- 5.10 From and after such time as the Owner ceases to have a legal interest in the Lands, the personable liability of the Owner shall likewise cease with respect to all liability arising by reason of an act or omission, whether by breach, default or otherwise with respect to the provisions of this Agreement, occurring after the Owner ceases to have any further interest in the relevant Lands, but the terms of this Agreement shall run with the Lands and be binding on each and every legal and beneficial owner of the Lands from time to time.

AS EVIDENCE OF THEIR AGREEMENT the parties have executed this Agreement as of the day and year first above written.

Prime Time (Abby Lane) Inc.

by its authorized signatories:

John Hitchcock Digitally signed by John
Hitchcock
Date: 2017.11.23 18:51:29 -05'00'

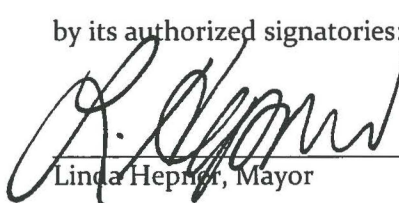
John Hitchcock

Judy Freeman Digitally signed by Judy
Freeman
Date: 2017.11.23 19:27:10 -05'00'

Judy Freeman

City of Surrey

by its authorized signatories:



Linda Hepner, Mayor



Jane Sullivan, City Clerk