

CITY OF SURREY

BYLAW NO. 20197

A bylaw 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, enacts as follows:

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

RIZE ATELIER (KGB) PROPERTIES LTD.
3204 – 1055 Dunsmuir Street,
Vancouver, British Columbia V7X 1L4

and with respect to that certain parcel of lands and premises, in the City of Surrey, more particularly known and described as:

Parcel Identifier: 010-038-752
Lot 2 Except: Part within Heavy Outline on Highway Statutory Right of Way Plan
62493, Section 35 Block 5 North Range 2 West NWD Plan 14725

(9656 King George Boulevard)

Parcel Identifier: 010-038-809
North 70 Feet Lot 3 Except: Part within Heavy Outline on Highway Statutory Right of
Way Plan 62493, Section 35 Block 5 North Range 2 West NWD Plan 14725

(9644 King George Boulevard)

(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 "The Rize Atelier (KBG) Properties Ltd. Housing Agreement, Authorization Bylaw, 2020, No. 20197".

PASSED FIRST READING on the 9th day of November, 2020.

PASSED SECOND READING on the 9th day of November, 2020.

PASSED THIRD READING on the 9th day of November, 2020.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 11th day of January, 2021.


_____ MAYOR


_____ CLERK



CITY OF SURREY

HOUSING AGREEMENT

THIS AGREEMENT made the 11th day of January, 2021

BETWEEN:

CITY OF SURREY, a municipal Corporation having its municipal offices at
13450 – 104 Avenue, Surrey, British Columbia V3T 1V8

(the "**City**")

AND:

RIZE ATELIER (KGB) PROPERTIES LTD., a corporation having its offices at 3204 –
1055 Dunsmuir Street, Vancouver, British Columbia V7X 1L4

(the "**Developer**")

WHEREAS:

A. The Developer is the current registered owner of those certain lands and premises located in the City of Surrey, in the Province of British Columbia, legally described as:

Portion of Parcel Identifier: 010-038-752

Lot 2 Except: Part within Heavy Outline on Highway Statutory Right of Way Plan 62493 Section 35 Block 5 North Range 2 West New Westminster District Plan 14725; and

Portion of Parcel Identifier: 010-038-809

North 70 Feet Lot 3 Except: Part within Heavy Outline on Highway Statutory Right of Way Plan 62493 Section 35 Block 5 North Range 2 West New Westminster District Plan 14725;

(collectively, the "**Lands**")

B. The Developer proposes to use a portion of the Lands for a residential building containing approximately 392 rental Dwelling Units (the "**Development**");

C. Section 483 of the *Local Government Act*, R.S.B.C. 2015, Chapter 1, as amended, authorizes the City by by-law to enter into a housing agreement.

NOW THEREFORE in consideration of the premises herein and of the mutual covenants and agreements hereinafter set forth and contained herein and \$1.00 now paid by the City to the Developer (the receipt of which is hereby acknowledged), the parties hereto covenant and agree each with the other as follows:

1.0 DEFINED TERMS

1.1 In and for the purpose of this Agreement, in addition to the definitions on the first page of this document, the following terms shall have the following meanings:

- a) "**Agreement**" means this Housing Agreement and any amendments to or modifications of the same.
- b) "**Dwelling Unit**" means each of approximately 392 private dwelling units to be constructed within the Development.
- c) "**Registered Owner**" means, at any given time, the then registered owner, or if more than one registered owner, the then registered owners of the Lands.
- d) "**Term**" means the earlier of:
 - a. 20 years, commencing on the first day of the month after the City issues an occupancy permit for the Development, whether such permit is temporary, conditional, or final; or
 - b. the time when the Registered Owner, acting reasonably, determines that it is not economical to repair or restore the Development or to keep and maintain the Development in tenantable condition to the standard required by this Agreement.

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 of intent of 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 gender and vice versa, and words importing persons 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 articles, section, paragraph or clause bearing that number or letter in this Agreement.

1.5 The words "hereof", "herein" 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.

2.0 RESTRICTION ON OCCUPANCY OF DWELLING UNITS

2.1 During the Term, the Development shall be operated as a rental building and the Dwelling Units shall be rental units available for rent in accordance with this Agreement.

2.2 The City may, from time to time, during the Term request the Registered Owner to provide written proof of compliance with Section 2.1 and the Registered Owner agrees to provide, or cause an operator of the Lands to provide, the City with such proof in a form reasonably satisfactory to the City.

2.3 During the Term, the portion of the Lands containing the Development shall not be stratified.

3.0 ENFORCEMENT

3.1 If the Registered Owner fails to enforce compliance with the terms and conditions of Section 2.0, then it is specifically understood and agreed that the City will be entitled, but will not be obliged, to enforce the terms and conditions of Section 2.0

4.0 LIABILITY

4.1 The Registered Owner will indemnify and save harmless the City and each of the selected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns (collectively, the "City Personnel"), of and from all claims, demands, actions, 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 reasons of or arising out of failure of the Registered Owner to comply with the terms and conditions of this Agreement, except to the extent arising out of the wilful misconduct or gross negligence of the City or the City Personnel.

4.2 Provided the City is in compliance with the terms and conditions of this Agreement, the Registered Owner hereby releases and forever discharges the City and the City Personnel, of and from any and all claims, demands, actions, damages, economic loss, costs and liabilities which the Registered Owner now has or hereafter may have with respect to or by reasons of or arising out of the fact that the Lands are encumbered by and affected by this Agreement, except to the extent arising out of the wilful misconduct or gross negligence of the City or the City Personnel.

5.0 NOTICE

5.1 Any notices or other documents to be given or delivered pursuant to this Agreement with be addressed to the proper party as follows:

(a) as to the City:

City of Surrey
13450 – 104 Avenue
Surrey, British Columbia
V3T 1V8

Attention: General Manager, Planning and Development Department

(b) as to the Developer:

Rize Atelier (KGB) Properties Ltd.
3204 – 1055 Dunsmuir Street
Vancouver, British Columbia
V7X 1L4
Attention: Development Manager

or such other address as such party may direct. Any notice or other documents to be given or delivered pursuant to this Agreement will be sufficiently given or delivered if delivered to the particular party as its address set out of or determined in accordance with this section and shall be deemed complete two days after the day of delivery.

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

6.0 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 uses or subdivision of land; and
- (b) relieves the Registered Owner from complying with any enactment, including the City's by-laws.

6.2 Notwithstanding any other provision herein, the City will release this Agreement and discharge any notice registered against title to the Lands in connection herewith if the Developer withdraws the application to rezone the Lands which permits, *inter alia*, the Development.

6.3 Notwithstanding anything to the contrary herein, the Developer and the City acknowledge and agree that this Agreement is only intended to apply to the Development and not any other portion of the Lands. The City covenants and agrees that concurrently with the registration of any subdivision plan (including an airspace subdivision plan, or a strata plan pursuant to the *Strata Property Act*) that creates a separate legal parcel or parcels for the portion of the Lands containing the Development, the City will, without delay, execute in registrable form and deliver to the Developer for filing in the applicable land title office, a discharge of any notice of this Agreement from title to the parcel(s) so created that do not contain the Development or any portion thereof. Such discharge is to be prepared and registered at the sole cost of Developer.

6.4 The Developer agrees to obtain from any prospective purchaser or other transferee of the Development an agreement to be bound by the terms of this Agreement (but the foregoing shall not apply, for certainty, to a transfer to a lessee having an interest in an individual Dwelling Unit or a mortgagee).

6.5 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.

6.6 Time is of the essence of this Agreement.

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

6.8 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.

6.9 Upon request by the City, the Registered Owner of the Lands will promptly do such acts and execute such documents as the City may reasonably require, in the opinion of the City, to give effect to this Agreement.

6.10 This is the entire Agreement between and among the parties concerned 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.


6.11 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.

6.12 This Agreement shall ensure to the benefit of and be binding upon the Registered Owner of the Lands and its successors and assigns and all parties claiming through them and this Agreement shall enure to the benefit of and be binding upon the City and its successors and assigns. This Agreement shall charge and run with the Lands.


6.13 The covenants of the Registered Owner contained herein shall be personal and be binding upon the Registered Owner only during its ownership of any interest in the Lands herein described.

IN WITNESS WHEREOF the City of Surrey and the Developer have executed this Agreement under seal of their duly authorized officers as of the references of this Agreement.

CITY OF SURREY

By: 

Authorized Signatory
Doug McCallum, Mayor
City of Surrey

By: 

Authorized Signatory
Jennifer Ficocelli, City Clerk
City of Surrey

RIZE ATELIER (KGB) PROPERTIES LTD.

By: 

Authorized Signatory
Name: William Wei-Jong Lin
Title: President