



The Corporation of the District of North Cowichan

Vian Street Housing Agreement Bylaw

BYLAW NO. 4023

A bylaw to secure affordable housing units as part of a multi-family residential development

WHEREAS Section 483 of the *Local Government Act* provides that a local government may enter into a housing agreement with an owner which may include terms and conditions agreed to regarding the occupancy of the housing units identified in the agreement; and

WHEREAS the Council of the Corporation of the District of North Cowichan wishes to enter into such an agreement with respect to certain housing units to be constructed at the northeast corner of Vian Street and Clements Street;

NOW THEREFORE the Council of The Corporation of the District of North Cowichan, in open meeting assembled, enacts as follows:

Citation

1 This Bylaw may be cited as "*Vian Street Housing Agreement Bylaw No. 4023, 2025*".

Agreement

2 This Bylaw authorizes the Mayor and Corporate Officer to enter into an agreement, on behalf of the Corporation of the District of North Cowichan, in substantially the form attached to and made part of this Bylaw (Schedule A), which sets out the terms and conditions of the use and occupancy of the rental housing units identified in the agreement, with the owner of lands legally described as:

2731 Vian Street

LOT 13 SECTION 18 RANGE 6 QUAMICHAN DISTRICT PLAN 5997

PID: 001-988-409

Schedules

3 The following schedules are included in and form part of this Bylaw:

- (a) Schedule "A" – Part 2 – Terms of Instrument, Housing Agreement and Covenant – 2731 Vian Street

Severability

4 If any section, subsection, sentence, clause or phrase of this Bylaw is, for any reason, held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Bylaw.

READ a first time on
READ a second time on
READ a third time on _____.
ADOPTED on _____.

CORPORATE OFFICER

PRESIDING MEMBER

Schedule "A" to accompany "Vian Street
Housing Agreement Bylaw No. 4023,
2025".

Presiding Member

Corporate Officer

SCHEDULE "A"

PART 2 – TERMS OF INSTRUMENT

HOUSING AGREEMENT AND COVENANT – 2731 VIAN STREET (Section 483 *Local Government Act* and Section 219 *Land Title Act*)

THIS AGREEMENT, dated for reference the _____, is

BETWEEN:

PARSI CONSULTING GROUP LTD.

6289 ST. GEORGE STREET
VANCOUVER, BC, V5W 0B8

(the "Owner")

AND:

THE CORPORATION OF THE DISTRICT OF NORTH COWICHAN

7030 Trans Canada Highway
Duncan, B.C. V9L 6A1

(the "Municipality")

WHEREAS:

- A. The Owner is the registered owner in fee simple of the lands and premises located in the in the Municipality of North Cowichan, British Columbia which have a civic address of 2731 Vian Street, Duncan, British Columbia, and the legal description:

PID: 001-988-409

LOT 13, SECTION 18, RANGE 6, QUAMICHAN DISTRICT, PLAN 5997

(the "Lands");

- B. Section 483 of the *Local Government Act* permits the Municipality to enter into and note on title to lands housing agreements which may include, without limitation, conditions in respect to the form of tenure of housing units, availability of housing units to classes of persons, administration of housing units, and rent that may be charged for housing units;
- C. Section 219 of the *Land Title Act* permits the registration of a covenant of a positive or a negative nature in favour of the Municipality in respect of the use of, construction on, and subdivision of land;
- D. The Owner wishes to construct a 28-unit rental apartment on the Lands (the "Development"), and requires a rezoning of the Lands in order to facilitate the Development;

- E. The Municipality wishes to secure affordable, long-term rental housing in the Municipality and has requested as a condition of rezoning the Lands that this Agreement be entered into between the parties and registered on title to the Lands; and
- F. The Municipality and the Owner wish to enter into this Agreement to provide long-term rental housing on the terms and conditions set out in this Agreement.

NOW THEREFORE THIS AGREEMENT IS EVDIENCE THAT in consideration of one (\$1.00) dollar paid to the Owner by the Municipality and other good and valuable consideration (the receipt and sufficiency of which is acknowledged by the Owner), and in consideration of the promises exchanged below, the Owner and the Municipality covenant and agree pursuant to section 483 of the *Local Government Act* and section 219 of the *Land Title Act* as follows:

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions – In this Agreement, the following words have the following meanings:

- (a) “Affordable Rental Unit” means a Dwelling Unit to which clause 4.4 is applicable;
- (b) “Agreement” means this agreement together with all LTO forms, schedules, appendices, attachments and priority agreements attached hereto;
- (c) “Development” has the same meaning a set out in paragraph D of the recitals;
- (d) “Dwelling Unit” means a residential dwelling unit located, or to be located, on the Lands;
- (e) “Eligible Tenant” means a person or group of co-habiting people who, at the time of assessment, have a pre-tax household income at or below the most recent Housing Income Limits, for the relevant unit type and for the Duncan-N.Cowichan planning area, as published by BC Housing
- (f) “LTO” means the Victoria Land Title Office or its successor;
- (g) “North Cowichan - Private Average Rents” means the primary rental market private apartment average rent, for all years, as specified by bedroom type, for North Cowichan (DM), as published from time to time by the Canadian Mortgage and Housing Corporation in the Housing Market Information Portal;
- (h) “Operating Agreement” means a written agreement, other than this Agreement, which establishes permitted rental rates for Dwelling Units;
- (i) “subdivide” means to divide, apportion, consolidate or subdivide the Lands or any building on the Lands, or the ownership or right to possession or occupation of the Lands or any building on the Lands, into two or more lots, strata lots, parcels, parts, portions or shares, whether by plan, descriptive words or otherwise, under the *Land Title Act*, the *Strata Property Act*, or otherwise, and includes the creation, conversion,

organization or development of “cooperative interests” or a “shared interest in land” as defined in the *Real Estate Development Marketing Act* (British Columbia);

- (j) “Tenancy Agreement” means a tenancy agreement, lease, license or other agreement granting rights to occupy a Dwelling Unit; and
- (k) “Tenant” means an occupant or group of occupants of a Dwelling Unit by way of a Tenancy Agreement.

1.2 Interpretation – In this Agreement:

- (a) reference to the singular includes a reference to the plural, and *vice versa*, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (d) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (e) reference to any enactment or bylaw is a reference to that enactment or bylaw as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (f) the provisions of section 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (g) time is of the essence;
- (h) all provisions are to be interpreted as always speaking;
- (i) reference to a “party” is a reference to a party to this Agreement and to that party’s respective successors, assigns, trustees, administrators and receivers. Wherever the context so requires, reference to a “party” also includes a Tenant, agent, officer and invitee of the party;
- (j) reference to a “day”, “month”, or “year” is a reference to a calendar day, calendar month, or calendar year, as the case may be, unless otherwise expressly provided; and
- (k) where the word “including” is followed by a list, the contents of the list are not intended to limit or otherwise affect the generality of the expression preceding the word “including”.

ARTICLE 2 USE OF THE LANDS

- 2.1 Use of the Lands** – The Owner covenant and agrees, pursuant to section 219 of the *Land Title Act* that Lands must only be built upon and used in accordance with this Agreement and:
- (a) a Dwelling Unit must only be used as a residence.

ARTICLE 3 DWELLING UNITS

- 3.1 Housing Agreement** – the Owner covenants and agrees pursuant to section 483 of the *Local Government Act* that the occupancy of every Dwelling Unit will be subject to and conducted in accordance with the terms and conditions of this Agreement.
- 3.2 Dwelling Unit Tenure** – The tenure of every Dwelling Unit must only be rental.
- 3.3 Tenancy Agreements** – Every Tenancy Agreement must conform with this Agreement and include the following terms and conditions:
- (a) the Dwelling Unit will only be used for residential tenancies.
- 3.4 Occupancy and Tenure of Dwelling Units** – Dwelling Units must not be rented, leased, licensed, or otherwise permitted to be occupied except in accordance with this Agreement and the following additional terms and conditions:
- (a) the Dwelling Units may be used or occupied only pursuant to a valid Tenancy Agreement;
 - (b) the Tenancy Agreement will be for a term of no less than thirty (30) days;
 - (c) the Owner will forthwith deliver a true copy of any Tenancy Agreement to the Municipality upon demand.
- 3.5 Short-term Rentals Prohibited** – No Dwelling Unit may be occupied, rented, or used in any way whatsoever as a short-term vacation rental.

ARTICLE 4 AFFORDABLE RENTAL UNITS

- 4.1 Application of Article** – The terms and conditions contained within this Article 4 apply only if the Lands are not subject to an Operating Agreement with BC Housing, or an Operating Agreement approved by the Municipality.
- 4.2 Affordable Rental Units** – At all times, no less than sixty (60%) percent of all Dwelling Units within the Development must be operated as Affordable Rental Units.
- 4.3 Occupancy and Tenure of Affordable Rental Units** – Affordable Rental Units must not be rented, leased, licensed, or otherwise permitted to be occupied except in accordance with this Agreement and the following additional terms and conditions:

- (a) Tenancy Agreements for Affordable Rental Units may only be commenced where the prospective Tenant is an Eligible Tenant.
- (b) Tenants must not be required to pay in relation to their use and occupancy of the Affordable Rental Unit any extra charges or fees for sanitary sewer, storm sewer, water, or property or similar tax; and
- (c) each Tenancy Agreement for an Affordable Rental Unit must include a term permitting the Owner to terminate the tenancy if the Tenant is no longer an Eligible Tenant. The Owner and the Municipality agree that the use of such term will be at the Owner's discretion.

4.4 Rental Rates of Affordable Rental Units – The rental rate for each Affordable Rental Unit must be set as follows:

- (a) the rental rate must not exceed the following amount: 10% below the most recent North Cowichan - Private Average Rents for the applicable unit type, at the time of the Tenancy Agreement commencing.

4.5 Tenant Screening and Records – The Owner must:

- (a) review the income of each prospective Tenant for an Affordable Rental Unit prior to commencing such tenancy to confirm the prospective Tenant is an Eligible Tenant;
- (b) review the income of each Tenant every 3 years after the commencement of a Tenancy Agreement for an Affordable Rental Unit to confirm if the Tenant continues to be an Eligible Tenant; and
- (c) maintain a system of records indicating the incomes each past and current Tenant for a period of not less than 6 years.

ARTICLE 5 TERM AND DISCHARGE

5.1 Expiry of Housing Agreement – This Agreement will expire and cease to apply from and after the latter of:

- (a) the sixtieth (60th) anniversary of the issuance of an occupancy permit for the Development; or
- (b) the demolition of the Development, after a determination by the Municipality's engineer, acting reasonably, that the Development has reached the end of its lifespan and it is no longer reasonable to repair or maintain the Development; and

after the expiry of this Agreement the Owner may provide to the Municipality a discharge of this Agreement, which the Municipality will execute and return to the Owner for filing in the LTO.

ARTICLE 6 MISCELLANEOUS

- 6.1 Housing Agreement** – The Owner acknowledges and agrees that:
- (a) this Agreement includes a housing agreement entered into under section 483 of the *Local Government Act* and a covenant under section 219 of the *Land Title Act*;
 - (b) the Municipality may file notice of, and register, this Agreement in the LTO pursuant to section 483(5) of the *Local Government Act* against the title to the Lands.
- 6.2 Modification** – This Agreement may only be modified or amended pursuant to the *Local Government Act*.
- 6.3 Management** – The Owner covenants and agrees with the Municipality that:
- (a) the Owner will furnish good and efficient management of the Dwelling Units;
 - (b) the management of all Affordable Rental Units will be undertaken by a single legal entity;
 - (c) the Owner will permit representatives of the Municipality to inspect the Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*;
 - (d) the Owner will maintain the Dwelling Units and the building they occupy in a good state of repair and fit for habitation in accordance with the requirements of the *Residential Tenancy Act*, reasonable wear and tear excepted; and
 - (e) the Owner will comply with all applicable laws, including, without limitation, the *Residential Tenancy Act*, all other Municipality bylaws, and any health and safety standards applicable to the Lands.
- 6.4 Requirement for Annual Report** – The Owner must, upon written request by the Municipality (though not more than once a calendar year) provide to the Municipality a written report, which includes the rental roll, confirming to the Municipality's satisfaction that the Owner continues to provide below-market housing units pursuant to this Agreement.
- 6.5 Statutory Declaration** – The Municipality may, from time to time, request the Owner to provide written proof of compliance with this Agreement, and the Owner covenants and agrees to provide, or cause an operator of the Lands to provide the Municipality with such proof in a form reasonably satisfactory to the Municipality, including as a declaration made under oath.
- 6.6 Municipality Authorized to Make Inquiries** – The Owner hereby irrevocably authorizes the Municipality to make such inquiries as the Municipality considers necessary in order to confirm that the Owner is complying with this Agreement.

6.7 Indemnity – As an integral part of this Agreement, the Owner must indemnify, defend and save harmless the Municipality and each of its elected officials, officers, directors, and agents, and their heirs, executors, administrators, personal representatives, successors and assigns, from and against any and all claims, demands, actions, causes of action, loss, damage, costs and liabilities, which all or any of them will or may be liable for or suffer or incur or be put to by reason of or arising out of:

- (a) any negligent act or omission of the Owner, or its officers, directors, agents, contractors or other persons for whom at law the Owner is responsible relating to this Agreement;
- (b) the construction, maintenance, repair, ownership, lease, license, operation, management or financing of the Lands or any Dwelling Unit or the enforcement of any Tenancy Agreement; or
- (c) without limitation, any legal or equitable wrong on the part of the Owner or any breach of this Agreement by the Owner.

6.8 Release – The Owner, on its behalf, hereby releases and forever discharges the Municipality and each of its elected officials, officers, directors, and agents, and their heirs, executors, administrators, personal representatives, successors and assigns, from and against any and all claims, demands, actions, causes of action, loss, damage, costs and liabilities which arise by reason of or which would or could not occur but for:

- (a) the existence of or operation of this Agreement;
- (b) the exercise of any right or privilege by the Municipality pursuant to this Agreement; or
- (c) the construction, maintenance, repair, ownership, lease, license, operation or management of the Lands or any Dwelling Units under this Agreement;

except to the extent arising from the negligence or wilful misconduct of the Municipality or those for whom it is at law responsible.

6.9 Survival – The indemnity and release set out in this Agreement will survive termination or discharge of this Agreement.

6.10 Municipality's Powers Unaffected – This Agreement does not:

- (a) affect, fetter or limit the discretion, rights, duties or powers of the Municipality under any enactment or at common law, including in relation to the use or subdivision of the Lands;
- (b) impose on the Municipality any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement;

- (c) affect or limit any enactment relating to the use or subdivision of the Lands; or
- (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of the Lands.

6.11 Agreement for Benefit of Municipality Only – The Owner and the Municipality agree that:

- (a) this Agreement is entered into only for the benefit of the Municipality;
- (b) this Agreement is not intended to protect the interests of the Owner, any Tenant, or any future Owner, lessee, occupier or user of the Lands, any building on the Lands, or any portion thereof, including any Dwelling Units; and
- (c) the Municipality may at any time execute a release and discharge of this Agreement, without liability to anyone for doing so, and without obtaining the consent of the Owner.

6.12 Municipal Discretion – Where the Municipality or a Municipal staff member is required or permitted under this Agreement to form an opinion, exercise a discretion, express satisfaction, make a determination or give its consent:

- (a) the relevant provision shall not be considered fulfilled unless the approval, opinion, determination, consent or expression of satisfaction is in writing signed by the Municipality or the staff member, as the case may be;
- (b) the approval, opinion, determination, consent or satisfaction is in the sole discretion of the Municipality or the staff member, as the case may be; and
- (c) the Municipality or the staff member, as the case may be, is under no public law duty of fairness or natural justice in that regard and the Municipality or the staff member may do any of those things in the same manner as if it were a private person and not a public body or employee or officer thereof

6.13 Notice – Any notice required to be served or given to a party herein pursuant to this Agreement will be sufficiently served or given if delivered:

- (a) to the postal address of the Owner set out in the records at the LTO, and
- (b) to the postal address of the Municipality set out on the first page of the terms of this Agreement and to the attention of the Director of Planning:

or to the most recent postal address provided in a written notice given by each of the parties to the other. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery.

6.14 Owners Expense – The Owner must perform its obligations under this Agreement at its own expense and without compensation from the Municipality.

- 6.15 Enuring Effect** – This Agreement will extend to and be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
- 6.16 Severability** – If any provision of this Agreement is found to be invalid or unenforceable, such provision or any part thereof will be severed from this Agreement and the resultant remainder of this Agreement will remain in full force and effect.
- 6.17 Waiver** – All remedies of the Municipality will be cumulative and may be exercised by the Municipality in any order or concurrently in case of any breach and each remedy may be exercised any number of times with respect to each breach. Waiver of or delay in the Municipality exercising any or all remedies will not prevent the later exercise of any remedy for the same breach or any similar or different breach. Any waiver of any clause or obligation by either party must be in writing and delivered pursuant to the notice provisions in this Agreement in order to be effective.
- 6.18 Entire Agreement** – This Agreement, and any documents signed by the Owner contemplated by this Agreement, represent the entire agreement between the Municipality and the Owner respecting the use and occupation of the Dwelling Units, and there are no warranties, representations, conditions or collateral agreements made by the Municipality except as set forth in or contemplated by this Agreement.
- 6.19 Further Assurance** – Upon request by the Municipality the Owner will forthwith do such acts and execute such documents as may be reasonably necessary in the opinion of the Municipality to give effect to this Agreement.
- 6.20 Priority** – The Owner must cause this Agreement to be registered in the LTO against title to the Lands with priority over all financial liens, charges and encumbrances, and any leases and options to purchase, registered or pending registration at the time of application for registration of this Agreement, including by causing the holder of each such lien, charge, encumbrance, lease or option to purchase to execute an instrument in a form required by the Municipality under which such holder postpones all of the holder’s rights to those of the Municipality under this Agreement in the same manner and to the same extent as if such lien, charge, encumbrance, lease or option to purchase had been registered immediately after the registration of this Agreement.
- 6.21 Agreement Runs with Lands** – This Agreement burdens and runs with the Lands and every parcel into which it is subdivided in perpetuity. All of the covenants and agreements contained in this Agreement are made by the Owner for itself, its personal administrators, successors and assigns, and all persons who after the date of this Agreement acquire an interest in the Lands.
- 6.22 Equitable Remedies** – The Owner acknowledges and agrees that damages would be an inadequate remedy for the Municipality for any breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.

6.23 No Joint Venture – Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the Municipality or give the Owner any authority to bind the Municipality in any way.

6.24 Applicable Law – The laws of British Columbia apply to this Agreement and all statutes referred to herein are enactments of the Province of British Columbia.

As evidence of their intention and agreement to be bound by this Agreement, the parties hereto have executed the General Instrument – Part 1 (*Land Title Act* Form C) which is attached to and forms part of this Agreement.

CONSENT AND PRIORITY AGREEMENT

PRIORITY AGREEMENT

WHEREAS:

- A. The **VANCOUVER CITY SAVINGS CREDIT UNION** (the “**Chargeholder**”) is the holder of a mortgage and assignment of rents (the “**Financial Charges**”) encumbering the lands described in Item 2 of Part 1 of the Form C General Instrument to which this Priority Agreement is attached and which are registered in the Victoria Land Title Office as Mortgage CA9012097 and Assignment of Rents CA9012098; and
- B. A covenant is being granted pursuant to Part 2 of the Form C General Instrument to which this Priority Agreement is attached (the “**Municipality’s Charge**”) which is or will be registered against title to the lands.

NOW THEREFORE for one dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed to by the Chargeholder, the Chargeholder hereby grants to the Municipality priority for the Municipality’s Charges over all the Chargeholder’s right, title and interest in and to the lands as if the Municipality’s Charges had been executed, delivered and registered prior to the execution and registration of the Financial Charges and prior to the advance of any monies pursuant to the Financial Charges. The grant of priority is irrevocable, unqualified and without reservation or limitation.

END OF DOCUMENT