

**HOUSING AGREEMENT (11 CHOWN PLACE) BYLAW**  
A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to authorize an agreement for affordable and below-market rental housing for the lands known as 11 Chown Place, Victoria, BC.

Under its statutory powers, including section 483 of the *Local Government Act*, the Council of The Corporation of the City of Victoria in an open meeting enacts the following provisions:

**Title**

- 1 This Bylaw may be cited as the "HOUSING AGREEMENT (11 CHOWN PLACE) BYLAW (2022)".

**Agreement authorized**

- 2 The Director of Sustainable Planning and Community Development is authorized to execute the Housing Agreement:
- (a) substantially in the form attached to this Bylaw as Schedule A;
  - (b) between the City and The Gorge View Society, Inc. No. 0004996 or other registered owners from time to time of the lands described in subsection (c); and
  - (c) that applies to the lands known as 11 Chown Place, Victoria, BC, legally described as:  
PID: 005-066-999 Lot A (DD 270373I), Section 10 and 11, Victoria District, Plan 11749

READ A FIRST TIME the                      7<sup>th</sup>                      day of                      **July**                      2022

READ A SECOND TIME the                      7<sup>th</sup>                      day of                      **July**                      2022

READ A THIRD TIME the                      7<sup>th</sup>                      day of                      **July**                      2022

ADOPTED on the    day of    2022

CITY CLERK

MAYOR

## Schedule A

### HOUSING AGREEMENT

(Pursuant to section 483 of the *Local Government Act*)

BETWEEN:

**THE CORPORATION OF THE CITY OF VICTORIA**

#1 Centennial Square  
Victoria, B.C. V8W 1P6

(the "City")

AND:

**THE GORGE VIEW SOCIETY**

S0004996  
11 Chown Place  
Victoria, B.C. V9A 1H5

(the "Owner")

**WHEREAS:**

- A. Capitalized terms used herein will have the respective meanings ascribed to them in section 1.1 of this Agreement, unless the context otherwise clearly requires or they are elsewhere defined herein.
- B. Under section 483 of the *Local Government Act* the City may, by bylaw, enter into a housing agreement with an owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions referred to in section 483(2) of the *Local Government Act*.
- C. The Owner is the registered owner in fee simple of lands in the City of Victoria, British Columbia, with a civic address of 11 Chown Place, Victoria, B.C. and legally described as:  
  
PID: 005-066-999  
LOT A (DD 270373I), SECTION 10 AND 11, VICTORIA DISTRICT, PLAN 11749  
  
(collectively, the "**Lands**").
- D. The Owner has applied to the City for a rezoning and Official Community Plan bylaw amendments to authorize the development of four new multi-unit residential buildings and three blocks of townhouses phased over the next several decades, and has agreed to enter into this housing agreement with the City to secure the Dwelling Units as below-market or affordable rental units;
- E. The Existing Buildings currently house tenants and are slated to be demolished over a period of time and replaced with the New Buildings, and the Owner has agreed to offer a right of first refusal to the existing tenants to allow the tenants to move into the New Buildings;

- F. In 2020 and 2021, the Owner entered into two housing agreements with the City in respect of the 2022 Building which also applies to any Dwelling Unit to be developed on the Lands in the future (the "**2020/2021 Housing Agreements**");
- G. The Owner intends to subdivide the Lands to create a standalone parcel for the 2022 Building and seek a release of the 2020/2021 Housing Agreements from the remainder of the Lands;
- H. The City and the Owner wish to enter into this Agreement, as a housing agreement pursuant to section 483 of the *Local Government Act*, to secure the agreement of the Owner that all Dwelling Units within the Development will be used and held only as affordable or below-market rental housing.

**NOW THIS AGREEMENT WITNESSES** that pursuant to section 483 of the *Local Government Act*, and in consideration of the premises and covenants contained in this agreement (the "**Agreement**"), the parties agree each with the other as follows:

## **1.0 DEFINITIONS**

### **1.1 In this Agreement:**

**"Affordable Units"** means a rent level that does not exceed 30% of the respective HILs for studio, one, two, or three bedroom Dwelling Units;

**"Appraised Market Rent"** means the rent (as determined by a professional appraiser acceptable to the City in the City's sole and absolute discretion) that a willing tenant would pay to a willing landlord to rent the Dwelling Unit in question pursuant to a Tenancy Agreement, on the open market in Victoria, British Columbia, having regard to any utility or other services or amenities available to the tenant or provided by the Owner as landlord;

**"BC Housing"** means the British Columbia Housing Management Commission;

**"Below-Market Rent"** means a rent level higher than Affordable rent but below Appraised Market Rent;

**"2022 Building"** means the four-storey residential building consisting of approximately 58 affordable rental dwelling units approved by Development Permit with Variances No. 00132 and shown on the proposed site plan at Schedule "A" with the label "Existing 4 storey – 58 units";

**"Business Day"** means Monday to Friday, other than any such day which is a statutory holiday in Victoria, British Columbia;

**"CMHC"** means the Canada Mortgage and Housing Corporation;

**"Development"** means the New Buildings to be constructed on the Lands, and excludes the 2022 Building;

**"Director"** means the City's Director of Sustainable Planning and Community Development or their designate;

**"Dwelling Units"** means any or all, as the context may require, of the approximately 255 self-contained residential dwelling units within the Development and includes any dwelling unit that is developed on the Lands in future, and **"Dwelling Unit"** means any of such residential dwelling units located on the Lands;

**"Effective Date"** means the date as of which the City executes this Agreement;

**"Eligible Tenants"** means the tenants who are listed as residents in the Tenant Assistance Plan, in any of the Existing Buildings that will be demolished if the Development proceeds and are identified in the Tenant Assistance Plan as eligible for the benefits set out therein, and **"Eligible Tenant"** means any of them;

**"Existing Buildings"** means the existing residential rental buildings on the Lands as shown in the "Existing Site Plan" at Schedule B and excludes the 2022 Building, and **"Existing Building"** means any of them;

**"HILs"** means the annual Housing Income Limits that are determined from time to time by BC Housing and that apply to a particular Affordable Unit depending on the number of bedrooms in the Affordable Unit. The parties agree that for 2021, the HILs for Victoria are: 1 bedroom or less = \$47,500, 2 bedroom = \$61,000, 3 bedroom = \$79,000 and 4+ bedroom = \$84,500;

**"Immediate Family"** includes a person's spouse, child, grandchild, parent, grandparent, sibling, niece and nephew, and includes the Immediate Family of the person's spouse;

**"Income"** means the total income before tax from all sources for each Non-owner;

**"New Buildings"** means the proposed residential rental buildings on the Lands to be constructed as shown in the "Proposed Site Plan" at Schedule A and excludes the 2022 Building, and **"New Building"** means any of them;

**"Non-owner"** means a person other than a Related Person or the Owner;

**"Owner"** includes a person who acquires an interest in the Lands or any part of the Lands or the Development and is thereby bound by this Agreement, as referred to in section 12.3;

**"Personal Information"** has the same meaning ascribed to the term under the *Freedom of Information and Protection of Privacy Act* (BC);

**"Public Housing Body"** means a non-profit society, non-profit municipal housing corporation, BC Housing, or Capital Region Housing Corporation;

**"Related Person"** includes, where the registered or beneficial owner of the Lands or Dwelling Unit, as applicable, is:

- (a) a corporation or society:
  - (i) an officer, director, shareholder, or member of such corporation or society, or of another entity which is a shareholder or member of such corporation or society; or



- (ii) an Immediate Family of a person to whom paragraph (i) applies, or
- (b) an individual, an Immediate Family of the registered or beneficial owner; and

"Senior" means a person aged 55 years or older;

"Strata Plan" means a strata plan filed in respect of the Lands or any subdivision thereof pursuant to the *Strata Property Act*;

"Subdivided Parcel" has the meaning ascribed to that term in section 8.3;

"Tenancy Agreement" means a tenancy agreement pursuant to the *Residential Tenancy Act* that is regulated by that Act;

"Tenant Assistance Plan" means a tenant assistance plan prepared by the Owner in accordance with the City's prevailing Tenant Assistance Policy or successor in function;

"Tenant Assistance Policy" means the City's Tenant Assistance Policy dated February 10, 2022 attached at Schedule C, or its successor in function;

"Unit Type" refers to the total number of bedrooms contained in the Dwelling Unit.

## 2.0 TERM

2.1 Subject to section 2.2, the term of this Agreement shall begin from the Effective Date and continue in perpetuity.

2.2 The obligations in section 3.1 shall begin on the date the City issues an occupancy permit for each New Building and continue for a term of 60 years or the life of the respective New Building, whichever is greater.

## 3.0 DWELLING UNITS TO BE USED AND OCCUPIED ONLY AS AFFORDABLE OR BELOW-MARKET RENTAL UNITS

3.1 The Owner covenants and agrees that:

- (a) the Dwelling Units shall only be used as rental housing, and for that purpose shall only be occupied by a Non-owner under the terms of a Tenancy Agreement between the Owner and the Non-owner who occupies the Dwelling Unit;
- (b) a minimum of 50% of the Dwelling Units shall be rented to and occupied by a Senior Non-owner; and
- (c) the Dwelling Units shall only be rented at Affordable Rent levels or Below-Market Rent levels.

## 4.0 OWNERSHIP OF DWELLING UNITS

- 4.1** The Owner further covenants and agrees that the Dwelling Units shall be owned by a Public Housing Body.

**5.0 RIGHT OF FIRST REFUSAL FOR EXISTING TENANTS**

- 5.1** The Owner covenants and agrees to submit a Tenant Assistance Plan to the City with each development permit application for a New Building or a demolition permit application for an Existing Building, whichever comes first.
- 5.2** The Owner covenants and agrees to provide each Eligible Tenant with a right of first refusal to occupy a Dwelling Unit in the Development following issuance of the occupancy permit and use reasonable efforts to minimize tenant displacement by offering each Eligible Tenant a unit in the New Building or 2022 Building of comparable Unit Type to the Eligible Tenant's occupied unit in the Existing Building.
- 5.3** Subject to section 5.4, the Owner covenants and agrees to provide all Eligible Tenants with the communication, relocation assistance, moving costs and assistance, and other benefits set out in the Tenant Assistance Plan, and to otherwise comply with and fulfill the terms and conditions set out in such Tenant Assistance Plan.
- 5.4** Financial assistance, compensation or benefits are not required to exceed the guidelines in the current Tenant Assistance Policy at Schedule C.

**6.0 RIGHT OF FIRST REFUSAL FOR EXISTING TENANTS - PROCESS**

- 6.1** The Owner covenants and agrees with the City as follows:
- (a) Within ninety (90) days of submitting a Tenant Assistance Plan to the City, the Owner will provide all Eligible Tenants with a copy of the Tenant Assistance Plan with Personal Information redacted, and provide them with written notification:
    - (i) of the Owner's anticipated date of applying for an occupancy permit; and
    - (ii) that Eligible Tenants who are interested in exercising their right of first refusal must respond to the Owner by a specified date, which shall not be less than forty-five (45) days from receipt of the notification, to provide their contact information.
  - (b) No less than six (6) months prior to applying for any occupancy permit for a New Building, the Owner will provide written notification to all Eligible Tenants who provided their contact information in accordance with subsection (a)(ii), and advise them of the Owner's anticipated date of applying for an occupancy permit.
  - (c) No less than ninety (90) days prior to applying for any occupancy permit, the Owner will contact in writing all Eligible Tenants who provided their contact information in accordance with subsection (a)(ii), and
    - (i) provide the Eligible Tenant with a Tenancy Agreement for a Dwelling Unit, and
    - (ii) advise the Eligible Tenant:

- (A) of the Unit Type of their Dwelling Unit;
- (B) of the location of their Dwelling Unit within the Development;
- (C) of the rent for their Dwelling Unit;
- (D) of the availability date for their Dwelling Unit;
- (E) that the Eligible Tenant has no less than forty-five (45) days from receipt of the notification to provide the Owner with the signed Tenancy Agreement, if they wish to accept the Dwelling Unit.

## **7.0 RENT ADJUSTMENTS**

- 7.1** During the term of the tenancy, the monthly rent payable by the Non-owner(s) of the Dwelling Units may be increased only by the amount permitted under the *Residential Tenancy Act* and any other applicable legislation.

## **8.0 SUBDIVISION**

- 8.1 Subdivision Generally.** If the Lands are subdivided at any time hereafter either under the provisions of the *Land Title Act* or under the *Strata Property Act*, or under other similar legislation enacted from time to time, then upon the deposit of a plan of subdivision, a Strata Plan, or similar plan as the case may be, subject to section 8.2:

- (a) the rights and benefits of this Agreement herein granted will be annexed to and run with each of the new parcels, lots or other subdivided parcels and areas so created; and
- (b) the burdens, obligations, agreements and covenants contained in this Agreement will continue to be noted on each of the new parcels, lots or other subdivided parcels and areas so created.

- 8.2 Subdivision by Strata Plan.** If the Lands, or any portion thereof, are subdivided by a Strata Plan:

- (a) the existence of this Agreement and the City bylaw authorizing and enacting it will be noted on the title of each individual strata lot and noted on the common property sheet;
- (b) the Owner will cause the strata corporation or the strata corporations created by the deposit of a Strata Plan to be obliged to perform and observe the Owner's applicable covenants in this Agreement, solely at the expense of the strata lot owners; and
- (c) the liability of each strata lot owner for the performance and observance of the Owner's covenants herein will be in proportion to the unit entitlement of his, her or its strata lot as established by the Strata Plan,

provided that, if the Lands are first subdivided by air space plan and then one or more of these parcels are further subdivided by Strata Plan, the easements and covenants registered concurrently with the air space plan may designate the air space parcel or the remainder, and therefore each strata lot owner and/or the strata corporation, responsible

to perform and observe the Owner's covenants in this Agreement.

- 8.3 Release of Notice.** For certainty, if the portion of the Lands containing the Development is subdivided and any of the parcels created as a result of such subdivision do not contain any of the Dwelling Units (the "**Subdivided Parcel**"), the owner of such Subdivided Parcel may apply to the City to release the Notice (as defined in section 8.1) from title to the Subdivided Parcel. The City agrees to execute and deliver a release of this Housing Agreement from title to the Subdivided Parcel, provided however that: (a) the City will have no obligation to execute any such release until a written request therefor from the owner of the Subdivided Parcel has been received by the City, which request will include the form of release in registerable form; (b) the cost of preparation of such release and the cost of registration of same in the Land Title Office will be paid by the Owner; and (c) the City will have a reasonable time within which to execute such release and return the same to the Owner for registration.

## **9.0 REPORTING**

- 9.1** The Owner covenants and agrees to provide to the Director, within thirty (30) days of the Director's written request, a report in writing confirming that:

- (a) all Dwelling Units are being rented to Non-Owners and Senior Non-owners in accordance with this Agreement or are vacant;
- (b) rent levels for the Dwelling Units are either at Affordable Rent or Below-Market Rent levels; and
- (c) all other requirements of this Agreement are being complied with, along with such other information as may be reasonably requested by the Director from time to time.

- 9.2** The Owner covenants and agrees to provide to the Director, prior to issuance of any occupancy permit for a New Building, a solemn declaration sworn before a lawyer or notary including the following information, to the satisfaction of the Director:

- (d) the names of all Eligible Tenants who have exercised their right of first refusal,
- (e) each Eligible Tenant's Unit Type in the Development,
- (f) the total number of occupants of each Dwelling Unit occupied by Eligible Tenants,
- (g) each Eligible Tenant's rent for their Dwelling Unit, and
- (h) any final tenant assistance reports required pursuant to the Tenant Assistance Plan.

- 9.3** The Owner hereby authorizes the City to make such inquiries as it considers reasonably necessary in order to confirm that the Owner is complying with this Agreement.

- 9.4 Appraised Market Rent.** The Owners will determine, and inform the City of, the Appraised Market Rent for each Dwelling Unit on any of the Lands owned by that Owner:

- (a) prior to the City issuing a final occupancy permit for each building in the Development; and
- (b) thereafter, at any other time that the City may reasonably request.

#### **10.0 NOTICE TO BE REGISTERED IN LAND TITLE OFFICE**

- 10.1** Notice of this Agreement (the "**Notice**") will be registered in the Land Title Office by the City at the cost of the Owner in accordance with section 483 of the *Local Government Act*, and this Agreement is binding on the parties to this Agreement as well as all persons who acquire an interest in the Lands after registration of the Notice.

#### **11.0 LIABILITY**

- 11.1** The Owner agrees to indemnify and saves harmless the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, 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 reason of or arising out of failure of the Owner to comply with the terms and conditions of this Agreement, or otherwise that would not have arisen "but for" this Agreement.
- 11.2** The Owner hereby releases and forever discharges the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from any and all claims, demands, actions, damages, economic loss, costs and liabilities which the Owner now has or hereafter may have with respect to or by reason of or arising out of the fact that the Lands are encumbered by and affected by this Agreement, or otherwise that would not have arisen "but for" this Agreement.

#### **12.0 GENERAL PROVISIONS**

- 12.1 NOTICE.** If sent as follows, notice under this Agreement is considered to be received:

- (a) upon confirmation of delivery by Canada Post if sent by registered mail,
- (b) on the next Business Day if sent by facsimile or email with no notice of failure to deliver being received back by the sender, and
- (c) on the date of delivery if hand-delivered, and

in the case of the City, addressed to:

City of Victoria  
 #1 Centennial Square  
 Victoria, BC V8W 1P6

Attention: Director of Sustainable Planning and  
 Community Development  
 Email: [khoese@victoria.ca](mailto:khoese@victoria.ca)  
 Fax: 250-361-0386

in the case of the Owner, addressed to:

Gorge View Society  
 11 Chown Place  
 Victoria, B.C., V9A 1H5

Attention: Operations Manager  
 Email: gorgeview@shaw.ca

If a party identifies alternate contact information in writing to another party, notice is to be given to that alternate address.

If normal mail, email or facsimile service is interrupted by strike, work slowdown, force majeure, or other cause,

- (d) notice sent by the impaired service is considered to be received on the date of delivery, and
- (e) the sending party must use its best efforts to ensure prompt receipt of a notice by using other uninterrupted services, or by hand-delivering the notice.

**12.2 TIME.** Time is of the essence of this Agreement.

**12.3 BINDING EFFECT.** This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees. In accordance with section 483(6) of the *Local Government Act*, this Agreement and all obligations hereunder is binding on all who acquire an interest in the Lands, and the Owner only during the Owner's ownership of any interest in the Lands, and with respect only to that portion of the Lands of which the Owner has an interest.

**12.4 WAIVER.** The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

**12.5 HEADINGS.** The division of this Agreement into articles and sections and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this Agreement.

**12.6 LANGUAGE.** Words importing the singular number only will include the plural and vice versa, words importing the masculine gender will include the feminine and neuter genders and vice versa, and words importing persons will include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.

**12.7 LEGISLATION.** Reference to any enactment includes any regulations, orders or directives made under the authority of that enactment, and is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided.

**12.8 EQUITABLE REMEDIES.** The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for 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.

- 12.9 CUMULATIVE REMEDIES.** No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.
- 12.10 ENTIRE AGREEMENT.** This Agreement when executed will set forth the entire agreement and understanding of the parties as at the date it is made.
- 12.11 FURTHER ASSURANCES.** Each of the parties will do, execute, and deliver, or cause to be done, executed, and delivered all such further acts, documents and things as may be reasonably required from time to time to give effect to this Agreement.
- 12.12 AMENDMENT.** This Agreement may be amended from time to time, by consent of the Owner and a bylaw duly passed by the Council of the City and thereafter if it is signed by the City and the Owner.
- 12.13 LAW APPLICABLE.** This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.
- 12.14 NO DEROGATION FROM STATUTORY AUTHORITY.** Nothing in this Agreement shall:
- (a) limit, impair, fetter or derogate from the statutory powers of the City all of which powers may be exercised by the City from time to time and at any time to the fullest extent that the City is enabled and no permissive bylaw enacted by the City, or permit, licence or approval, granted, made or issued thereunder, or pursuant to statute, by the City shall estop, limit or impair the City from relying upon and enforcing this Agreement; or
  - (b) relieve the Owner from complying with any enactment, including the City's bylaws, or any obligation of the Owner under any other agreement with the City.
- 12.15 SEVERABILITY.** If any section, term or provision of this Agreement is found to be partially or wholly illegal or unenforceable, then such sections or parts will be considered to be separate and severable from this Agreement and the remaining sections or parts of this Agreement, as the case may be, will be unaffected thereby and will remain and be enforceable to the fullest extent permitted by law as though the illegal or unenforceable parts or sections had never been included in this Agreement.
- 12.16 JOINT AND SEVERAL.** The Owner, if more than one, are jointly and severally obligated to perform and observe each and every of the covenants, warranties and agreements herein contained by the Owner to be observed and performed.
- 12.17 COUNTERPARTS.** This Agreement may be executed in counterparts and delivered by emailed PDF file, each of which will have the same effect as if all parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement.
- 12.18 EFFECTIVE DATE.** This Agreement is effective as of the date of the signature of the last party to sign.
- 13.0 PRIORITY AGREEMENT**
- 13.1** BC Housing, as the registered holder of financial charges by way of two Mortgages and Assignment of Rents against the Lands, which said charges are registered in the Land

Title Office at Victoria, British Columbia, under numbers CA9142392, CA9142393, CA9142394, respectively, for and in consideration of the sum of One Dollar (\$1.00) paid by the City (the receipt whereof is hereby acknowledged), agrees with the City that upon filing of a Notice with the Land Title Office that the Lands are subject to this Agreement, pursuant to section 483(5) of the *Local Government Act*, this Agreement shall be an encumbrance upon the Lands in priority to the said charges in the same manner and to the same effect as if Notice had been filed prior to the said charges.

**IN WITNESS WHEREOF** the parties hereto have set their hands and seals as of the day and year last below written.

THE CORPORATION OF THE CITY OF )  
VICTORIA by its authorized signatory: )

Karen Hoesse, Director of Sustainable Planning and Community Development

Date signed: \_\_\_\_\_

**THE GORGE VIEW SOCIETY (S0004996)**  
by its authorized signatories:

James Keefe, Vice Chair

Gary Hall, Treasurer

Date signed: June 23 2022

AS TO PRIORITY:  
**BRITISH COLUMBIA HOUSING  
 MANAGEMENT COMMISSION**  
 by its authorized signatory(ies):

---

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date signed: \_\_\_\_\_



Title Office at Victoria, British Columbia, under numbers CA9142392, CA9142393, CA9142394, respectively, for and in consideration of the sum of One Dollar (\$1.00) paid by the City (the receipt whereof is hereby acknowledged), agrees with the City that upon filing of a Notice with the Land Title Office that the Lands are subject to this Agreement, pursuant to section 483(5) of the *Local Government Act*, this Agreement shall be an encumbrance upon the Lands in priority to the said charges in the same manner and to the same effect as if Notice had been filed prior to the said charges.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the day and year last below written.

THE CORPORATION OF THE CITY OF )  
VICTORIA by its authorized signatory: )

\_\_\_\_\_  
Karen Hoese, Director of Sustainable  
Planning and Community Development )

Date signed: \_\_\_\_\_ )

THE GORGE VIEW SOCIETY (S0004996)  
by its authorized signatories: )

\_\_\_\_\_  
James Keefe, Vice Chair )

\_\_\_\_\_  
Gary Hall, Treasurer )

Date signed: \_\_\_\_\_ )

AS TO PRIORITY:  
BRITISH COLUMBIA HOUSING  
MANAGEMENT COMMISSION  
by its authorized signatory(ies): )

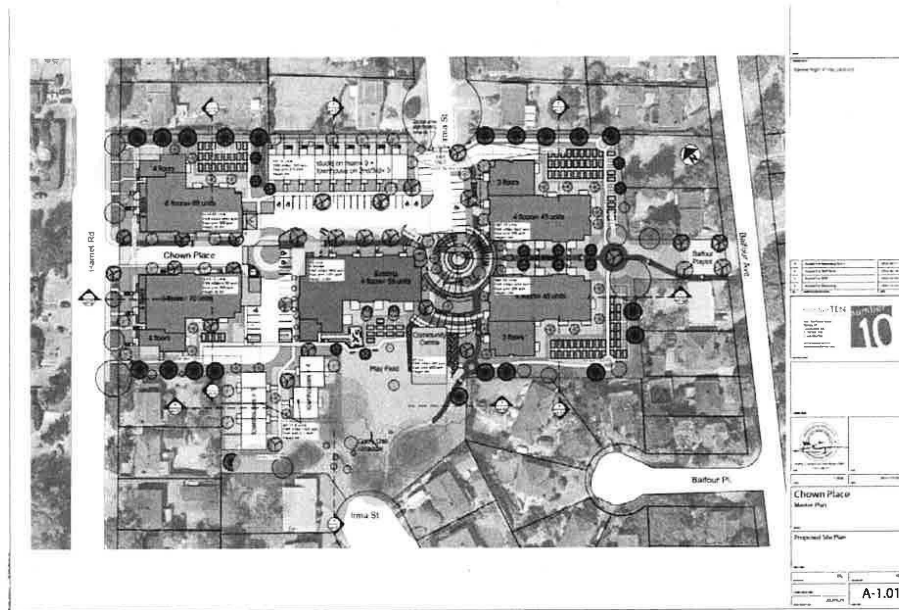
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Vince Tong  
Vice President  
Development & Asset Strategies )

Print Name: \_\_\_\_\_ )

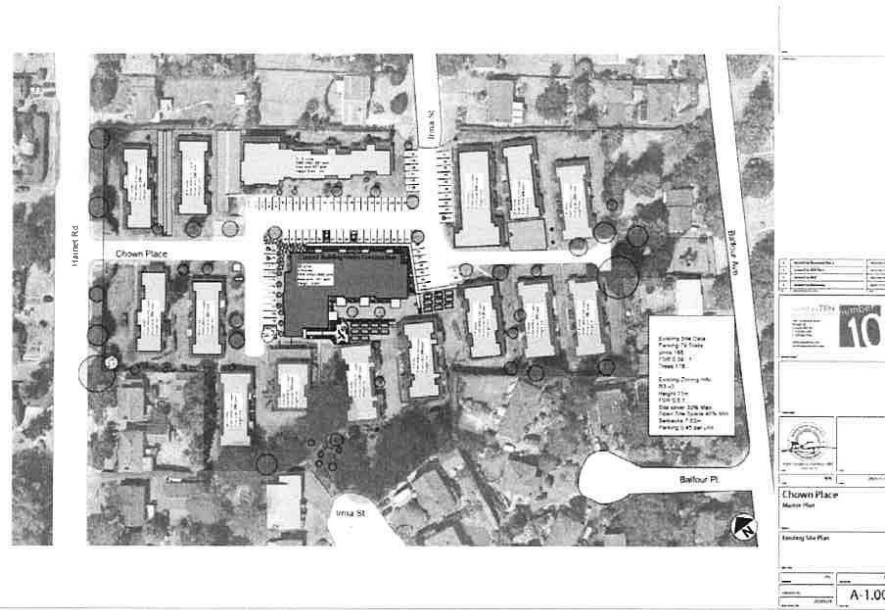
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MICHAEL PISTON A/P- Asset Strategies )

Date signed: JUN 22, 2022. \_\_\_\_\_ )

**Schedule A**  
**Proposed Site Plan**



**Schedule B  
Existing Site Plan**



**Schedule C**  
**Tenant Assistance Policy**  
*(begins on following page)*



## **Tenant Assistance Policy**

### **Victoria Housing Strategy 2016 – 2025**

## **1.0 Introduction**

### **1.1 Victoria Renters**

Renters account for a significant portion of the City of Victoria's population and are an important part of the City's social fabric.

Many of the renters live in older and lower-density rental stock, where over 80% of which were built in the 1960s and 1970s<sup>1</sup>. With a proportionally high percentage of renters in the City (61% of the total population)<sup>2</sup> for the past several years, this rental stock is a vital component of the City's overall supply of rental housing, with rental rates that are often lower than market average.

Renting also allows for median income households to live in Victoria. The median annual income of renters is \$44,165, significantly lower than that of homeowners (\$80,986)<sup>3</sup>.

### **1.2 Rental Housing Challenges**

A healthy vacancy rate is considered to be between three to seven percent. With Victoria's growing population, demand for rental housing, and low vacancy rate (1.1%)<sup>4</sup>, combined with limited increases in income and limited new supply of purpose-built rental housing in recent decades, the cost of housing for renters has significantly increased. Not only has the cost of rental increased but there has been an increase in home ownership costs that have been creating challenges for many households to purchase a home. The impact of increasing home ownership costs is that households that would have previously been seeking to buy a home are now opting to rent, putting additional pressure on the rental market. While renters of all incomes have experienced a dramatic increase in rents over the past number of years, the impact has been felt acutely by those on fixed or low incomes and single persons households, such as seniors, low income families, single parents, and low wage workers alongside others.

The demolition and replacement of rental buildings results in the displacement of tenants, an issue that is exacerbated by significantly higher rents in new buildings. Lack of affordable housing, especially affordable rental stock, is a significant factor that contributes to relatively high levels of homelessness in the city, with significant social and economic costs and impacts. Any loss of rental stock and displacement of existing tenants, especially tenants with additional assistance, is a serious challenge.

<sup>1</sup> Market Rental Revitalization Report 2018

<sup>2</sup> Statistics Canada Census 2016

<sup>3</sup> Statistics Canada Census 2016

<sup>4</sup> CMHC Rental Market Report 2018

### 1.3 Policy Intent

The Tenant Assistance Policy has been developed to help mitigate the potential impacts of displacement on tenants by providing guidelines for developers and property owners to provide additional supports for tenants who are displaced as a result of major renovations or development.

## 2.0 Role of British Columbia Residential Tenancy Act

British Columbia's Residential Tenancy Act (RTA) regulates all tenancy agreements in residential units across the province. The Tenant Assistance Policy and Guidelines are intended to augment the RTA and address challenges unique to Victoria. While these Guidelines outline some of the requirements for tenant support included in the RTA, they are not a comprehensive nor complete guide. In some instances, the RTA outlines penalties for non-compliance for items both included in these guidelines and omitted. It is important that both landlords and tenants understand their rights and responsibilities under the RTA.

For more information on Residential Tenancy Policy and guidelines, please refer to [Residential Tenancy Policy Guideline 2](#).

### 2.1 Notice to End Tenancies

The RTA sets out minimum notice that a landlord must give tenants to move out in case of renovations to or demolition of an existing building. A landlord may issue a *Notice to End Tenancy* only after all necessary permits have been issued by the City. In addition, landlords must give four months' notice to end tenancies for renovation, demolition, and conversions. Tenants have 30 days to dispute the notice.

For more information, please refer to the [Landlord Notice to End Tenancy](#).

### 2.2 Renovations and Repairs

Under the RTA, renovations and repairs must be so extensive that they require the unit to be empty in order for them to take place, and the only way to achieve the necessary emptiness or vacancy is by terminating a tenancy. The RTA and associated guidelines provide specific guidance pertaining to whether a landlord may end a tenancy in order to undertake renovations or repairs to a rental unit.

For more information, please refer to [Ending a Tenancy for Landlord's use of Property](#).

### 2.3 Right of First Refusal

In instances of renovations or repairs requiring vacancy, the RTA requires tenants be offered the right of first refusal to enter into a new tenancy agreement at a rent determined by the landlord. This right of first refusal applies only to a rental unit in a residential property containing 5 or more units, and there are financial penalties for non-compliance.

For more information, please refer to [Tenant Notice: Exercising Right of First Refusal](#).

### 3.0 Policy Target

The application of the Tenant Assistance Policy are as follows:

- The Tenant Assistance Policy is applicable to rezoning applications to redevelop or demolish any building that will result in loss of existing residential rental units.
- This policy offers best practice guidelines that can also be used by all applicants who are seeking to renovate or redevelop existing residential rental units.
- This policy is intended to guide applicants and City staff as part of the application process but it is not intended to fetter Council's discretion when dealing with individual applications, each of which will be evaluated on its own merits.

#### 3.1 Applicable Housing Types

The applicable housing types are as follows:

- *Market Rental Housing* – private rental housing with rent determined by the market
- *Non-Market or Social Housing* – housing that is rented at a price that is not set by market forces but set and controlled over time by some other means

#### 3.2 Eligible Tenants

Eligible Tenants are tenants who should be included in the Tenant Assistance Plan and includes all tenants who have resided in the building for one year or more at the time a rezoning application is submitted.

A tenant who has not resided in the property long enough to be an eligible tenant, including a tenant that moves into the property after the rezoning or development permit application is submitted to the City, is not required to be included in the Tenant Assistance Plan (but may be included at the applicant's discretion).

In cases where an eligible tenant moves out prior to receiving a Notice to End Tenancy from the landlord, they are still entitled to full financial compensation and the additional support they are eligible for under the Tenant Assistance Policy.

#### 3.3 Developing a Tenant Assistance Plan

For any renovation or redevelopment that requires relocation of existing tenants, the property owner must create a Tenant Assistance Plan that addresses the following issues:

- Early communication with the tenants
- Appropriate compensation
- Relocation assistance
- Moving costs and assistance
- Right of First Refusal.

The City has developed a Tenant Assistance Plan template that is available for applicant use. The template includes the required FOIPPA section 27(2) privacy notification which should be identified for tenants.

### 3.4 Communication with Tenants

Applicants should communicate their intention to renovate or redevelop with tenants throughout the process prior to submitting any application to the City and continue to communicate throughout the process. The Tenant Assistance Plan should be developed with input from tenants and once finalized, the full plan should be communicated to tenants. Communication with tenants could include:

- A written letter or email sent by the applicants to all tenants outlining the proposed project and expected timeline
- Providing a primary point of contact for tenants
- Providing the City's *Frequently Asked Questions (FAQ)* handout sheet
- Providing a *Request for Tenant Assistance Form* to tenants to identify tenant assistance needs
- Informing tenants about the City's Tenant Assistance webpage and the Residential Tenancy Branch webpage
- Ongoing communication regarding the process of the development and tenant assistance process at each stage of the process (prior, during, and at the conclusion of the project) in the form of a meeting, letter, email, etc.

### 4.0 Tenant Assistance Plan for Market Rental Housing Development

The guidelines in this section are intended to be used for renovation or redevelopment in Market Rental Housing developments, as defined in section 3.1 Applicable Housing Types.

#### 4.1 Compensation

Compensation should be given to displaced tenants. Compensation may take the form of free rent, a lump sum payment, or a combination of both.

For market rental housing, compensation is recommended to be based on length of tenancy at either:

- (1) The higher of CMHC average rent for the City of Victoria (as identified in CMHC's Annual Rental Market Report, adjusted annually and identified in Table 1 – Rental Compensation below) or the tenant's existing rent; or
- (2) Free rent in a different building

**Table 1 - Rental Compensation**

CMHC Average Rent <sup>5</sup>	Length of Tenancy
<ul style="list-style-type: none"><li>• Bachelor: \$935</li><li>• 1BR: \$1,086</li><li>• 2BR: \$1,438</li><li>• 3BR+: \$1,766</li></ul>	<ul style="list-style-type: none"><li>• Up to 5 years: 3 months' rent</li><li>• 5 to 9 years: 4 months' rent</li><li>• 10-19 years: 5 months' rent</li><li>• 20+ years: 6 months' rent</li></ul>

<sup>5</sup> CMHC Rental Market Report 2018



For tenants receiving government or rental assistance where program eligibility is based on taxable income, such as BC Housing's Rental Assistance Program (RAP), Shelter Aid for Elderly Renters (SAFER), Income Assistance, Disability Assistance, etc., compensation in the form of free rent in a different building is preferable.

#### **4.2 Moving Expenses and Assistance**

One of two options should be provided to displaced tenants, at the discretion of the landlord:

- (1) An insured moving company may be hired by the applicant, with all arrangements and costs covered within Greater Victoria; or
- (2) Flat rate compensation (based on unit size) provided to the tenant at the rate of:
  - \$500 for bachelor and one bedroom households
  - \$750 for two bedroom households
  - \$1,000 for three or more bedroom households

When a tenant is exercising the Right of First Refusal (Section 4.4), moving expenses should be provided for both the move out and return to the building.

Tenants may request moving compensation different than that proposed by the Landlord per item 6.0: Tenants Requiring Additional Assistance.

#### **4.3 Relocation Assistance**

##### Tenant Relocation Coordinator

An experienced Tenant Relocation Coordinator should be hired or appointed by property owner or landlord to assist tenants with finding alternative rental housing options. A roster of local Tenant Relocation Coordinators can be found on the City's webpage.

Once in place, the Tenant Relocation Coordinator's contact information should be posted within the building in a conspicuous location, and they should be contactable at regular and consistent hours.

##### Alternate Housing Options

At least three housing options should be presented to the tenant(s). The units should be:

- Comparable in terms of size, location, and rent amount (unless otherwise agreed to by tenant)
- Located in the Capital Regional District, with at least one in the same neighbourhood (unless the tenant has indicated preference for another location)
- Rent at no more than the Canadian Mortgage and Housing Corporation (CMHC) average rents for the City of Victoria, or at a rate comparable to the tenant's current rate if current rent is higher than CMHC average
- Tailored to the tenant wherever possible (e.g. pet friendly, accessible, smoke-free, etc.)

#### **4.4 Right of First Refusal**

Tenants should be offered the Right of First Refusal, which is the right for the tenant being displaced to return to the building once renovations or redevelopment is complete. Returning tenants should be offered rents at 20% below starting market rents for the new units, with the following considerations:

- If a tenant's current rent is higher than the proposed 20% below market rent level, the right of first refusal can be offered at the tenant's current rental rate
- Tenants should be offered to be moved back to the building with moving expenses covered per Section 4.2

### **5.0 Tenant Assistance Plan for Non-Market Rental Housing Development**

The guidelines in this section are intended to be used for renovation or redevelopment in Non-Market Rental Housing developments, as defined in section 3.1 Applicable Housing Types.

#### **5.1 Compensation**

Compensation should be given to displaced tenants. Compensation may take the form of free rent, lump sum payment, or a combination of both.

Compensation is recommended to be based on length of tenancy:

- Up to 5 years: 3 months' rent
- 5 to 9 years: 4 months' rent
- 10 to 19 years: 5 months' rent
- 20+ years: 6 months' rent

In the case that compensation in the form of a lump sum payment may affect the tenants' eligibility for housing, then compensation in free rent in a different building is preferred.

These guidelines may be flexible for non-market or social housing developments, where negotiating for reduced compensation for tenants may be possible (for example when tenants are relocated in comparable accommodation within an organization's existing portfolio of affordable housing).

#### **5.3 Moving Expenses and Assistance**

Refer to Section 4.2.

#### **5.4 Relocation Assistance**

##### Tenant Relocation Coordinator

An experienced Tenant Relocation Coordinator should be hired or appointed by the property owner or landlord to assist tenants with finding alternative rental housing options. A roster of Tenant Relocation Coordinators can be found on the City's webpage.

Once in place, the Tenant Relocation Coordinator's contact information should be posted within the building in a conspicuous location and they should be contactable at regular and consistent hours.

#### Alternate Housing Options

At least three housing options should be presented to the tenant(s), where securing housing for the tenant(s) is recommended. The alternate units should be:

- Comparable in unit size and type (unless otherwise agreed by the tenant)
- Located in the Capital Regional District, with at least one in the same municipality
- For tenants paying Rent-Geared-to-Income, rents are to be no higher than what the tenant is eligible for under the current subsidy program
- For all other tenants, rents are to be no more than the higher of either 30% of household gross income or the tenant's current rent at the time of development application
- Tailored to the tenant wherever possible (e.g. pet friendly, accessible, smoke-free, etc.)

Preference should be given at the tenant's discretion to (in priority sequence):

- Phased renovations or redevelopment where tenants can be relocated in stages to other properties on the site without ending tenancies
- A unit within the non-profit's existing portfolio
- A unit within another non-profit's portfolio
- Other forms of subsidized housing (e.g. a portable rental supplement)

#### **5.5 Right of First Refusal**

Tenants should be offered the Right of First Refusal, which is the right for the tenant being displaced to return to the building once renovations or redevelopment is complete.

- Applicants should provide all residents with the right of first refusal to return to the new development at rents described in section 5.4
- Tenants offered to move back to the building should have moving expenses covered at rates described in Section 4.3
- Projects proposing new social housing, or in instances where rental units are replaced with social housing, returning tenants must meet eligibility requirements for the new social housing units and any criteria described in a Council-approved Housing Agreement

#### **6.0 Tenants Requiring Additional Assistance**

This policy is particularly targeted towards tenants requiring additional assistance, for whom the impact of displacement may be more acute. Tenants requiring additional assistance may include (but not limited to):

- Long-term tenants who may be paying significantly below market-rent, and for whom entering the current market may present financial challenges
- Tenants with specific housing needs due to a disability (physical and/or mental health issues)
- Seniors, who may be long-term tenants and living on a fixed income
- Families with young children, who may have difficulty finding appropriate units
- Newcomers (recent immigrants and refugees)
- Households with very low (<\$19,999) to low (\$20,000 - \$34,999) income

- Self-reporting of additional assistance required by tenants (disclosure to the applicant on the reason for requiring assistance is NOT required)

The City may, at its discretion, request that additional financial compensation or support be provided to tenants requiring additional assistance. Additional supports could include:

- Providing additional compensation in the form of free rent, lump sum payments or a combination of both
- Hiring a Tenant Relocation Coordinator to assist individual tenants
- Providing professional movers (costs and arrangements covered) and additional funds for moving expenses
- Working with non-profit agencies to offer alternative accommodation
- Prioritizing rent-geared-to-income tenants for relocation assistance
- Continued support for housing search options above the relocation assistance requirements
- Identifying an alternative housing option that is within 10% of the tenant's current rent, if the tenant has a low income and is paying significantly lower than CMHC average rent for the area
- Offering right of first refusal rents at 20% below starting market rents for the new units
- For tenants in subsidized housing, right of first refusal units offered at existing rents in the new building

## 7.0 Vacant Units

Special requirements apply where the rental building is vacant at the time of a rezoning application as a consequence of:

- A vacant possession having been a condition of property purchase; or
- A Notice to Vacate issued without proper permits and necessary approvals in place.

In these cases, the rezoning application will need to be supplemented with additional information as requested by the City, which may include on request supporting documents and legal notices delivered to the tenants, so as to afford the City the ability to confirm and verify that the process by which the building was vacated was, to the best of their knowledge, carried out in compliance with this Policy and the RTA.

## 8.0 Procedure for Implementation, Documentation, and Final Report

Once the Tenant Assistance Plan has been approved by City staff and Council in a rezoning application, the applicant is responsible for communicating the plan to tenants, and for implementing the plan as described in this policy.

Throughout implementation, landlords should keep good records of communication with tenants, including housing options provided and offers and acceptances of alternate housing provided, and be able to produce these records to the City on request.

A final Tenant Assistance Report should be submitted prior to the issuance of an occupancy permit. The City has developed a Final Tenant Assistance Report template that is available for applicant use. At minimum, the report should include:

- Names of tenants eligible for the Tenant Assistance Plan
- A summary of the financial compensation and assistance given to each tenant (e.g. moving costs, rent, etc.)
- Outcome of their search for accommodation
- Tenants who have exercised the right of first refusal

## **9.0 Freedom of Information and Protection of Privacy Act**

This policy recognizes that for the Tenant Assistance Plan to operate effectively, tenants' personal information will need to be collected, used and disclosed. Therefore, every tenant assistance plan will be administered in compliance with the following privacy requirements contained in the *Freedom of Information and Protection of Privacy Act*:

- Personal information can only be collected, used and disclosed for the purposes described in this policy
- Personal information must be protected at all times from unauthorized collection, use, access and disclosure
- Tenants must be made aware that providing their personal information is voluntary and non-disclosure does not prevent them from participating in the Tenant Assistance Plan
- Tenants have the right to know how their personal information is being used
- Tenants have the right to access their personal information and to request corrections of it where applicable
- Tenants will not be asked to provide any personal information that is not necessary to assist them under the Tenant Assistance Plan
- Tenants' personal information will not be retained longer than is necessary to assist them under the Tenant Assistance Plan
- Tenant Assistance Plans should not be forwarded to anyone, City staff or otherwise, not directly involved in the completion, participation in, or evaluation of the plan.