

NO. 17-022

HOUSING AGREEMENT (2330 RICHMOND ROAD) BYLAW
A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to authorize an agreement for rental housing for the lands known as 2330 Richmond Road, 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 (2330 RICHMOND ROAD) BYLAW (2017)".**

Agreement authorized

- 2 The Mayor and the City's Clerk are authorized to execute the Housing Agreement**
- (a) substantially in the form attached to this Bylaw as Schedule A;
 - (b) between the City and Oriano Belusic and Doris Belusic or other registered owners from time to time of the lands described in subsection (c); and
 - (c) that applies to the lands known as 2330 Richmond Road, Victoria, BC, legally described as:
024-959-758

LOT A, SECTION 76, VICTORIA CITY, PLAN VIP72013

| | | | | |
|------------------------|-----------------------|--------|--------------|------|
| READ A FIRST TIME the | 9th | day of | March | 2017 |
| READ A SECOND TIME the | 9th | day of | March | 2017 |
| READ A THIRD TIME the | 9th | day of | March | 2017 |
| ADOPTED on the | | day of | | 2017 |

CITY CLERK

MAYOR

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")

OF THE FIRST
PART

AND:

ORIANO AND DORIS BELUSIC

3196 RICHMOND RD
VICTORIA BC
V8P 4P1

(the "Owner")

OF THE SECOND
PART

AND:

HSBC BANK CANADA

869 Douglas Street
Victoria, BC
V8W 2B9

(the "Existing Chargeholder")

OF THE THIRD
PART

WHEREAS

- A. 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*;
- B. The Owner is the registered owner in fee simple of lands in the City of Victoria, British Columbia, with a civic address of 2330 RICHMOND RD and legally described as:

 PID: 024-959-758
 Lot A Section 76 Victoria City Plan VIP72013
 (the "**Lands**").
- C. The Owner has applied to rezone the land from the current R1-B Zone, Single Family Dwelling District, to a site specific zone to permit construction of a three-storey, multi-family residential development.
- D. 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 to provide rental housing, and that all Dwelling Units (as defined below) within the Development (as defined below) on the Lands will be used and held only as 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 parties agree each with the other as follows:

1.0 Definitions

1.1 In this Agreement:

"Development" means development and use of the Lands for a three storey, multiple residential building consisting of seven (7) Dwelling Units;

"Dwelling Unit" means a self-contained residential dwelling unit within the building that will be located on the Lands, and includes any dwelling unit that is developed on the Lands in future, whether as part of the Development or otherwise, and **"Dwelling Units"** means collectively all of such residential dwelling units located on the Lands.

"Immediate family" includes a person's husband, wife, child, mother, father, brother, sister, mother-in-law, father-in-law, grandparent, brother-in-law, sister-in-law, niece and nephew.

"Non-owner" means a person who occupies a Dwelling Unit for residential

purposes, other than the Owner of that Dwelling Unit, and other than a member of the Owner's Immediate family.

"Owner" includes a person who acquires an interest in the Lands or any part of the Lands and is thereby bound by this Agreement, as referred to in section 5.1.

"Tenancy Agreement" has the same meaning as under the *Residential Tenancy Act*.

1.2 In this Agreement:

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

2.0 Dwelling Units to be Used and Occupied Only as Rental Units

- 2.1 The Owner covenants and agrees that the Dwelling Units shall only be used as rental housing for a period of ten (10) years (the "Term"), and for that purpose shall only be occupied by a Non-owner under the terms of a Tenancy Agreement between the Owner and Non-owner who occupies the Dwelling Unit.
- 2.2 For clarity, the Term terminates in 2027, on the same day and month this Agreement is executed by the City.

3.0 Reporting

- 3.1 The Owner covenants and agrees to provide to the City, upon written request from the City's Director of Sustainability Planning and Community Development, a report in writing confirming that all Dwelling Units are being rented to Non-owners.
- 3.2 The Owner hereby authorizes the City to make such inquiries as it considers necessary in order to confirm that the Owner is complying with this Agreement.
- 3.3 The Owner acknowledges that it is within the City's sole discretion to consent or not to consent to modifications to this Agreement and that such consent may be withheld for any reason.

4.0 Notice to be Registered in Land Title Office

- 4.1 Notice of this Agreement ("Notice") will be registered in the Land Title Office by the City at the cost of the Owner in accordance with section 483(5) 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.

5.0 Liability

- 5.1 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.
- 5.2 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.

6.0 PRIORITY AGREEMENT

- 6.1 The Existing Chargeholder, as the registered holder of a charge by way of a Mortgage and Assignment of Rents against the Lands, which said charges are registered in the Land Title Office at Victoria, British Columbia, under numbers EV100664 and EV100665, 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.

7.0 General Provisions

Notice

- 7.1 If sent as follows, notice under this Agreement is considered to be received
 - (a) seventy-two (72) hours after the time of its mailing (by registered mail) or faxing, and
 - (b) on the date of delivery if hand-delivered,

to the City:

City of Victoria
 #1 Centennial Square
 Victoria, BC V8W 1P6
 Attention: Director of Sustainability Planning and
 Community Development
 Fax: 250-361-0386

to the Owners:

Oriano and Doris Belusic
 3196 Richmond Road
 Victoria BC, V8P 4P1

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

If normal mail service or facsimile service is interrupted by strike, work slow-down, force majeure, or other cause,

- (a) notice sent by the impaired service is considered to be received on the date of delivery, and
- (b) 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.

Time

7.2 Time is to be the essence of this Agreement.

Binding Effect

7.3 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 for a period of 10 years from the date this Agreement is effective.

Waiver

7.4 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.

Headings

7.5 The headings in this Agreement are inserted for convenience and reference only

and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision of it.

Language

- 7.6 Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.

Equitable Remedies

- 7.7 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.

Cumulative Remedies

- 7.8 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.

Entire Agreement

- 7.9 This Agreement when executed will set forth the entire agreement and understanding of the parties as at the date it is made.

Further Assurances

- 7.10 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.

Amendment

- 7.11 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.

Law Applicable

- 7.12 This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

No Derogation from Statutory Authority

- 7.13 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.

Joint and Several

- 7.14 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.

Counterpart

- 7.15 This Agreement may be executed in counterparts and delivered by facsimile or 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.

Effective Date

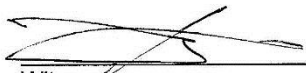
- 7.16 This Agreement is effective as of the date of the signature of the last party to sign.

IN WITNESS WHEREOF the parties have hereunto set their hands as of the dates inscribed at a place within British Columbia:

DORIS BELUSIC and ORIANO BELUSIC
Signed, Sealed and delivered

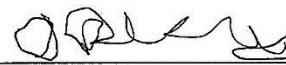
On the 3 day of FEBRUARY, 2017

in the presence of


Witness
CALLUM ENEIGH, MORTGAGE
107-1030 YATES ST. BROKER
VICTORIA, BC
V2V 5A7



Doris Belusic



Oriano Belusic

Address _____

Occupation _____

THE CORPORATION OF THE CITY OF VICTORIA by its authorized signatories:
On the ___ day of _____, 2017

Mayor Lisa Helps

Chris Coates, City Clerk

HSBC BANK CANADA by its
authorized signatories:

On the 14 day of February, 2017

Lisa Dalziel **LISA DALZIEL**
Print name: **BRANCH MANAGER**

R Sheehan
Print name: **ROSEMARY SHEEHAN**
ACCOUNT MANAGER
PERSONAL FINANCIAL SERVICES