Meeting 2015 May 04

COUNCIL REPORT

PLANNING AND DEVELOPMENT COMMITTEE

HIS WORSHIP, THE MAYOR
AND COUNCILLORS

SUBJECT: BC HOUSING NON-PROFIT ASSET TRANSFER PROGRAM

RECOMMENDATIONS:

1. THAT Council write to the Premier and the Deputy Premier and Minister Responsible for Housing, the Honourable Rich Coleman to express concern with the disposal of public land and building assets under the Non-Profit Transfer Program, as outlined in this report.

2. THAT Council request the Premier and Minister to provide for a long term plan to maintain public ownership of lands and buildings for non-market housing purposes to meet current and future community needs in the Province.

3. THAT a copy of this report be sent to Burnaby MLAs, the Metro Vancouver Board, and the City's Social Planning Committee.

4. THAT a copy of this report be sent to UBCM member municipalities for information.

REPORT

The Planning and Development Committee, at it's meeting held on 2015 April 28, received and adopted the *attached* report providing a preliminary review of the BC Housing Non-Profit Asset Transfer Program.

Respectfully submitted,

Councillor C. Jordan
Chair

Councillor D. Johnston
Vice Chair

Councillor S. Dhaliwal
Member

Copied to:	City Manager Deputy City Managers Director Planning & Building Director Finance

City of Burnaby

Meeting 2015 April 28

COMMITTEE REPORT

TO:	CHAIR AND MEMBERS PLANNING AND DEVELOPMENT COMMITTEE	**DATE:**	2015 April 16
FROM:	DIRECTOR PLANNING AND BUILDING	FILE:	16000 20

SUBJECT: **BC HOUSING NON-PROFIT ASSET TRANSFER PROGRAM**

PURPOSE: To provide a preliminary review of the BC Housing Non-Profit Asset Transfer Program.

RECOMMENDATIONS:

1. **THAT** Council write to the Premier and the Deputy Premier and Minister Responsible for Housing, the Honourable Rich Coleman to express concern with the disposal of public land and building assets under the Non-Profit Asset Transfer Program, as outlined in this report.

2. **THAT** Council request the Premier and Minister to provide for a long term plan to maintain public ownership of lands and buildings for non-market housing purposes to meet current and future community needs in the Province.

3. **THAT** a copy of this report be sent to Burnaby MLAs, the Metro Vancouver Board, and the City's Social Planning Committee

4. **THAT** a copy of this report be sent to UBCM member municipalities for information.

REPORT

1.0 BACKGROUND

At its meeting on 2015 February 2, under 'New Business', Council requested staff to provide information on BC Housing's program to sell lands to non-profit societies operating social housing projects. This program is called the 'Non-Profit Asset Transfer Program', which proposes to sell Provincially-owned lands to non-profit societies on which social housing is built.

This report provides a preliminary review of the Non-Profit Asset Transfer Program and the response received from the BC Non-Profit Housing Association. More specifically, this report identifies the implications of the program for social housing properties in Burnaby; and discusses staff's concerns regarding the potential long-term impacts of the Province's divestment of public assets on the future provision of social housing in BC.

The information included in this report was obtained from a variety of sources including staff consultation with representatives from BC Housing and BC Non-Profit Housing Association; BC Housing's website; newspaper articles; and Burnaby housing inventories.

2.0 BC HOUSING NON-PROFIT ASSET TRANSFER PROGRAM

In 2014 October, the Provincial government, as part of its housing strategy 'Housing Matters BC', introduced the Non-Profit Asset Transfer Program. The intent of the program is to offer non-profit housing providers the opportunity to buy the public land on which they operate social housing from the Provincial Rental Housing Corporation (PRHC). Over the next three years, up to 350 publicly-owned properties across BC may be involved in the program. It is anticipated that up to 115 of these properties will be transferred in 2015. The program is being implemented in two ways:

1. Sale of PRHC owned lands to non-profit societies who currently own and operate social housing buildings on these sites; and
2. Sale of public housing developments (properties directly managed by BC Housing) to non-profit societies through an open bid process (currently involving Stamps Place and Nicholson Tower in Vancouver).

BC Housing advises that proceeds from the sales will be reinvested into the creation of new non-market housing units, renovation of existing buildings, and other initiatives and partnerships that will expand affordable housing options.

***Summary Staff Comment**: After decades of senior government cutbacks in funding for social housing, the sale of publicly-owned land assets that have been set aside for this purpose would appear to be a continuation of the Provincial government's approach for divestment in social housing. While the Province has not announced the specifics of its intended allocation of the proceeds from these public land sales, in the absence of any new non-market housing programs, the proceeds would appear to be being allocated, over the short term, to fund current operating and building repair, upgrade and replacement cost and will result in the immediate and longer term loss of public ownership of non-market housing sites.*

2.1 Program Implementation

The Province's PRHC has about 350 publicly-owned properties across BC leased to non-profit societies. These properties all contain social housing buildings that are owned and operated by non-profit societies with operating funding provided under Federal and Provincial programs. The Province, through PRHC, is offering to sell the non-profit societies the land under these buildings. Eligible non-profits have the option of participating in the program or not. BC Housing advises that if a non-profit declines participation in the program, the existing lease agreement remains in place and no other purchasers would be considered for that property.

For those non-profits that choose to participate, BC Housing will terminate the current lease and transfer ownership of the public land to the non-profit society at a market value, as determined by a property appraisal. The non-profit society will pay for the land and obtain a mortgage from a private lender to cover the purchase costs, if necessary. BC Housing advises that, in most cases, these would be second, 35 year term, mortgages on the property, as most non-profits will already have an existing mortgage in place for buildings on the land. BC Housing will assist the non-profit with securing CMHC-insured mortgages against the land. The non-profit will be responsible for the mortgage payments, which would replace any current land lease payments the non-profit may be making to PRHC. BC Housing advises that it will subsidize the non-profit's mortgage payments to the extent where the new mortgage payments are roughly equal to the land lease payments made previously. BC Housing adds that financial circumstances will vary by non-profit organization and each land purchase, which will be accounted for through this subsidy approach.

BC Housing advises that its current operating agreements with participating non-profits will remain in place after the transfer of the property. Operating agreements outline the number of required affordable housing units and the level of subsidy for the units. Those operating agreements that expire prior to the amortization of the new mortgage resulting from the transfer will be replaced by a new agreement with BC Housing that will apply until the end of the mortgage term. BC Housing advises that they do not anticipate any impacts to tenants or changes to the number of subsidized units as a result of the transfer of ownership under these new agreements.

At the time property is transferred to a non-profit society, a Section 219 covenant will be registered against the land to ensure the land remains available for affordable housing, only for the length of the operating agreement and/or mortgage. BC Housing states that prior to approving a property for transfer, it will ensure the non-profit society is in good standing under the *Society Act* and has a stated purpose to provide affordable housing. The non-profit society would be able to distribute assets upon dissolution or wind-up to another organization with a charitable purpose. BC Housing advises that once an operating agreement, covenant and mortgage expire, the non-profit society's constitution and bylaws will provide the only assurance that the property continues to provide for affordable housing.

***Summary Staff Comment**: Once a non-profit society's mortgage is paid off and its operating agreement expires, it appears that mechanisms are not being put into place to ensure the land remains available for non-market housing in perpetuity. A non-profit society could choose, or may be forced, to sell the property on the open market for economic or other reasons. Proceeds from the sale could be directed to other housing units/sites, or to an alternate charitable purpose in another community, resulting in a loss of non-market units in the host community, and/or the long term loss of the non-market housing site in perpetuity.*

For the short term, the proposal's terms for the mortgage and housing agreements seem to maintain the provision of non-market housing by drawing on the revenue generated from the sale of the publicly owned land asset. Staff have sought clarification from BC Housing as to how the proceeds from land sales will be used, but have yet to receive a clear response. As such, staff

expect that the proceeds may in part or whole, be being used to fund ongoing operating agreements, and/or potential future allocations to housing programs. At this stage, however, accountability for the distribution of land sales revenues has not been provided by the Provincial government.

In the long term, the program would seem to transfer social housing responsibility to the charitable sector, with no assurances of continued public support in terms of social housing sites and/or operating support, and would result in the incremental loss of publicly owned lands for non-market housing over the longer term.

2.2 BC Non-Profit Housing Association response

The BC Non-Profit Housing Association (BCNPHA) represents most non-profit housing providers in BC. It has advocated for the transfer of Provincially-owned land to non-profit housing providers. It has indicated that land ownership would create more opportunities for housing providers to borrow money against their properties to fund capital upgrades or to expand the number of subsidized units.

From BCNPHA's perspective, the Non-Profit Asset Transfer Program is beneficial to the non-profit housing sector for several reasons:

a) Land ownership would provide potential access to equity for investment in capital upgrades, redevelopment opportunities, and development of new stock in other locations, that otherwise should come from a Provincial housing program.
b) Non-profits would potentially be able to leverage the ownership of assets into investments in affordable housing in an environment of expiring operating agreements[1] and a lack of new housing programs from senior levels of government.
c) Land ownership would potentially support reinvestment in buildings because it would reduce the uncertainty associated with long-term leases that are approaching expiration.
d) The Province's stated proposal to reinvest the proceeds of the transfers back into affordable housing is welcome in the short term, given the absence of any new Provincial funds for housing programs.
e) Tenants would potentially benefit from the re-investment in improved general maintenance of the buildings, as supported by the conversion of the capital land asset into operating support.

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[1] In B.C., approximately 30,000 units of social housing are managed under operating agreements with the Provincial and Federal governments. The operating agreements outline the subsidies that will be provided by both senior levels of government, and the obligations of the housing provider for obtaining the subsidy. The subsidies support housing providers to offer units on a rent geared to income basis. The majority of these long-term operating agreements are now beginning to reach their date of expiry and will continue to do so over the next ten to twenty years. At the time when the social housing developments were first built, it was viewed that once the original mortgage was paid off, there would be no ongoing need for continued government support. However, research by the Canadian Housing and Renewal Association indicates that many housing providers house tenants with very low incomes and do not generate sufficient income to pay for these ongoing expenses.

***Summary Staff Comment**: The BCNPHA has advocated for the transfer of publicly-owned lands to its sector, largely as a response to decades of decreased funding commitments from senior governments. The sale of public assets would likely not be required if senior governments maintained funding for social housing at levels that would address public need, and building repair, maintenance and replacement requirements. The non-profit sector appears willing to accept the Province's responsibility for providing non-market housing, in an effort to assist those who cannot find appropriate housing within the private housing market. Again, from a long term perspective, the program would set a public policy direction for social housing to be the responsibility of the charitable sector, with specific levels of subsidy support regulated and/or restricted based on Provincial funding limits. Over the term of its implementation, the currently owned public land would be transferred to the charitable sector, representing a further divestment of publicly owned land assets that could otherwise provide for non-market housing in perpetuity.*

3.0 BURNABY CONTEXT

Burnaby has over 5,500 non-market units located in 116 developments across the city that provide affordable housing for families, seniors, singles, and persons with disabilities and mental health challenges. These units are situated in non-profit, group home, co-operative, and public housing (directly managed by BC Housing) developments. In Burnaby, these developments are located on lands owned by the non-profit societies, co-operatives or PRHC. Of the properties located on land owned by PRHC, 25 properties are operated by non-profit societies and co-ops and the remaining seven properties are directly managed by BC Housing. In instances where the land is leased, the operator owns the improvements on the land (the buildings) and PRHC retains fee simple ownership of the land.

3.1 Eligible Burnaby Properties

BC Housing advises that of the 32 PRHC-owned properties in Burnaby, 15 that are leased to non-profit societies are eligible for the Non-Profit Asset Transfer Program. Of these 15 properties, six are already under contract to purchase that will take place early in the 2015/16 fiscal year. The remaining nine properties will be transferred over the next three years, should the affected non-profits choose to take part in the program. BC Housing states that the properties identified for the Non-Profit Asset Transfer Program were selected on a number of criteria including the good standing of the society, the condition and capital needs of the site, and the needs of the resident population. B.C. Housing did not provide the measures it used to evaluate these criteria to select the sites. A map of the 15 Burnaby properties is attached as ***Appendix A***.

The six properties that are currently under contract to purchase are:

	Development Name	Burnaby Address	No. of Units	Operator	City party to Sec. 219 covenant?
1.	Catherine Anne Court	7273 17th Ave.	45	Red Door Housing Society	Yes

	Development Name	Burnaby Address	No. of Units	Operator	City party to Sec. 219 covenant?
2.	Chaffey Lane	4389 Grange St.	37	Affordable Housing Societies	No
3.	Chelsea Terrace	5895 Kincaid St.	209	New Chelsea Society	No
4.	Chelsea View	5291 Oakmount Cres.	20	New Chelsea Society	Yes
5.	Heritage Heights	3765 Albert St.	21	Affordable Housing Societies	Yes
6.	Sunset Court	5850 Sunset St.	48	Affordable Housing Societies	Yes
TOTAL			**380**		

The remaining nine properties have been notified that they are eligible for transfer of ownership over the next few years are:

	Development Name	Burnaby Address	No. of Units	Operator	City Party to Sec. 219 Covenant?
1.	Altesse House/Lions Thurston Place	3762 Thurston St.	43	Burnaby Lougheed Lions Housing Society	No
2.	Britton House	7478 Britton St.	4	PosAbilities	No
3.	Concordia Court	7155 MacPherson Ave.	100	Affordable Housing Societies	No
4.	George Derby Centre	7550 Cumberland St.	300 beds	George Derby Care Society	No
5.	Lake Park Village	8580 Cumberland Pl.	43	More Than a Roof Mennonite Housing Society	Yes
6.	Liberty Place	7899 17th Ave.	20	Strive Living Society	Yes
7.	Lions Kingsway Terrace	7393 16th Ave.	32	Burnaby Lougheed Lions Housing Society	Yes
8.	Ridgeview Heights	450 Clare Ave.	40	PosAbilities	No
9.	Stride Place	7575 Kingsway	45	Burnaby Association for Community Inclusion	No
TOTAL			**327**		

***Summary Staff Comment**: There are 15 out of 25 properties in Burnaby considered to be eligible for the program, leaving 10 properties to pursue renewal of their lease agreements and operating agreements nearing expiration. The short term future of properties ineligible for the program remains in question due to a lack of clarity by government as to future programs to support their continued provision of non-market housing. A clear commitment from the Province regarding how it will continue to support these operators is needed in the context of their expiring operating agreements.*

In terms of the City's efforts to commit these lands to public/non-profit housing, seven properties have City Section 219 covenants in place that maintain the housing use in perpetuity, as shown in the Table above. The covenants were established by the City at the time of commitment of the properties to non-market housing under rezoning. This same level of commitment could be put in place by the Provincial government on the titles of the eight remaining properties to maintain these public land assets, as well as for PRHC sites across the province. This would ensure the future use for these sites for non-market housing in perpetuity; however, currently this is not part of the Provincial program.

3.2 Public Housing Sites

BC Housing advises that there are currently no plans to transfer properties in Burnaby that it manages directly. However, it noted that two such properties in Vancouver, Stamps Place and Nicholson Tower, are currently being assessed for transfer. It is possible that other directly-managed sites in the Lower Mainland and elsewhere in B.C. may be transferred to the non-profit sector over the next several years.

***Comment**: BC Housing's directly managed sites in Burnaby are not currently being considered for transfer. It remains, however, a concern and a possibility that they could be considered in the future. Residents of Stamps Place and Nicholson Tower in Vancouver have voiced significant concerns about the sale of these properties to a potential non-profit operator, the mandate of which may be unknown to existing tenants, due in part to a lack of consultation with residents. There is concern that the same lack of consultation and transparency would be applied to the sale of public housing sites in Burnaby and elsewhere in the Province should they come up for sale.*

3.3 204 Alpha Avenue and 205 Beta Avenue Properties

The properties at 204 Alpha Avenue and 205 Beta Avenue were purchased by BC Housing in 2007. These properties are comprised of two townhouse buildings constructed in 1959 with a total of 38 two-bedroom units. The properties are located on the southern border of Confederation Park.

BC Housing, through the PRHC, purchased the properties under the Provincial Homelessness Initiative. In 2008, the New Chelsea Society was selected to operate the housing, though PRHC retains ownership of both the land and buildings. Some of the units are provided to tenants on a rent geared to income basis while the remainder are provided at the low end of market rates.

Currently, section 219 covenants are not registered on the titles of these properties to secure them for non-market housing into the future. BC Housing advises that these properties are not being considered for the Non-Profit Asset Transfer Program.

Comment: *In a letter dated 2007 October 10, Council requested BC Housing to provide written confirmation that the above properties will continue to be maintained as housing for low income families in perpetuity, however a response was not received.*

4.0 POTENTIAL LONG TERM IMPACTS

BC Housing states that the Non-Profit Asset Transfer Program provides a positive response to a long-standing request from non-profit housing operators to own the land on which their buildings are located. While the benefits of the program to non-profit societies have been publicized, there has been little discussion about how the divestment of public land assets is advantageous to the public and the security of public non-market housing into the future. Members of the Provincial Opposition and the media have suggested that the program is an effort by the Provincial government to balance its budget by eliminating property maintenance costs and collecting land sales revenue. Yet, the Province has remained largely silent regarding the questions and concerns raised about the program and the protection of public assets in the long term, and/or the accounting for sale revenue within the Provincial budgeting process.

The following further articulates concerns with the program.

4.1 Proceeds from Land Sales and Protection of Public Assets

Issue: *The sale of publicly-owned lands currently dedicated for affordable housing could result in the loss of lands for non-market housing in the future.*

BC Housing has advised that the proceeds from the land sales will be reinvested into the creation of new social housing units, the renovations of existing older social housing properties and other initiatives and partnerships that expand affordable housing options. However, they have not explicitly outlined how proceeds from the sale of publicly-owned assets will be utilized, and have not addressed the concern that in the longer term will there be a loss of public assets or sites remaining for non-market housing.

If the proceeds from the land sales are used to subsidize the principal and interest payments for the non-profits' mortgages, and to provide operating subsidies for the shorter term of the new operating agreements that will be put in place, it appears that this will consume the funds obtained from the sale of a capital asset for operating and shorter term funding of housing. Provincial Opposition members have asked for clarity about the Non-Profit Asset Transfer Program, assurances that the existing number and level of subsidies will remain in the future, and details of how the proceeds from the sale of publicly-owned property will be reinvested in affordable housing for the long term benefit of the Province. To date, these questions have remained unanswered.

In summary, once these lands are privately owned by non-profit societies, there is concern that the lands will no longer be secured for affordable housing in perpetuity. BC Housing advises that its operating agreements with participating non-profits will remain in place after the transfer of the property, and as part of these agreements, Section 219 covenants will be registered on the titles of the properties, only for the term of the operating agreements, restricting the use of the lands to non-market housing. However, the covenants are to be released at the expiration of the operating agreements, which could result in the lands being used for other charitable, non-housing purposes, or the housing site sold, with a direct impact in the number and security of social housing units in the Province. In the long term, the rising costs of land will make re-purchase of these currently held public lands less feasible for future generations.

BC Housing further advises that the societies' stated purposes under their constitutions will provide the only assurance that projects will continue to meet affordable housing needs into the future. These provisions require distribution of assets to other charitable entities upon dissolution or wind-up of a society. As noted, however, such provisions do not prevent a society from selling a property to a charitable entity outside the housing sector. Nor does it prevent the land from being sold and the proceeds from that sale being put towards a society's other housing operations or used to purchase land in other communities. In all cases, dedicated public lands for non-market housing in Burnaby and other BC municipalities could be permanently lost through this program.

4.2 Long-term Viability of Subsidized Units

Issue: *With the Non-Profit Asset Transfer Program concerns about the long-term viability of subsidized units remain.*

As mentioned above, BC Housing advises that current levels and the number of subsidies on transferred properties will be maintained through the establishment of new operating agreements; however, it is unclear what will happen once those agreements expire. Without continued operational funding from the Province, operators may be forced to find a balance between rental income and operational costs. In the longer term, with the removal of any requirements related to the number and level of rental subsidies in a development, a non-profit society would need to consider raising rents to levels above the affordability level of clients to maintain financial balance once the agreement expires, as funding levels are lower, or costs increase.

Concerns have also been expressed regarding the capacity of some non-profits to leverage newly gained land ownership to finance renovations or redevelopment. Depending on their financial expertise, some non-profits could encounter financial difficulties, which could result in fewer or reduced levels of subsidies for units. Given that the demand for affordable housing remains high and the region's population is growing, the Province needs to responsibly protect existing subsidized units and commit to providing more units and sites to meet growing demand with funding programs that meet social housing needs in BC.

4.3 Expiring Operating Agreements

Issue: *For non-profit societies that are not eligible for the Non-Profit Asset Transfer Program, expiring operating agreements remain a concern.*

The expiry of existing operating agreements between non-profit housing providers and the Federal and Provincial governments has raised concerns over the last few years about the security of subsidies for low income tenants. At the time when many of BC's social housing developments were first built, it was viewed that once the original mortgage was paid off, there would be no ongoing need for continued government support. However, research by the Canadian Housing and Renewal Association indicates that many housing providers house tenants with very low incomes and do not generate sufficient income to pay for these ongoing expenses, such as maintenance costs and rent subsidies, without continued funding from senior government. Potential impacts could include higher average rents, a reduced number of deeply subsidized units, and/or a net loss of more affordable units (i.e. the transfer of units to market rents). As such, the expiration of operating agreements will have significant impacts on many housing providers and tenants in developments that are deemed not eligible for new funding.

4.4 Loss of Public Accountability

Issue: *The transfer of publicly-owned assets to non-profit societies weakens public accountability for the operation and maintenance of social housing.*

With the transfer of public assets to non-profit societies, concerns have been expressed over the loss of public accountability for the operation and maintenance of social housing developments. Currently, the public can appeal to BC Housing and elected officials when concerns arise regarding the condition, maintenance and operation of social housing properties tied to BC Housing through its operating agreements and land leases. With the transfer of land ownership to non-profit societies, this direct level of accountability will be reduced.

4.5 Loss of Government commitment

Issue: *With the Non-Profit Asset Transfer Program, the Province appears to be further divesting itself from its responsibility to provide housing for low income households and other vulnerable populations.*

The BCNPHA advises that it has advocated for the transfer of publicly held lands to non-profit societies in response to the absence of any new senior government funding for social housing. This is a situational response to senior governments' diminishing commitment to the provision of non-market housing. The City is concerned that the Province is continuing this trend by selling publicly-owned housing assets and further removing itself from its responsibilities for the provision of non-market housing. As the City has long advocated, senior levels of government have the constitutional responsibility and are the only agencies with the fiscal capability to ensure an adequate and secure supply of non-market housing.

5.0 CONCLUSION AND RECOMMENDATIONS

BC Housing's Non-Profit Asset Transfer Program has serious implications for the future of public land assets in Burnaby and province-wide. As with any public asset, the intent is that they provide long term benefits for the Province and its citizens. Due to the potential long-term implications of the program, numerous concerns have been raised, as outlined in this report. To ensure publicly owned land assets are protected now and in the future, it is critical that the Provincial government recommit to its responsibility as a direct provider of non-market housing.

It is therefore recommended that Council write to the Premier and the Deputy Premier and Minister Responsible for Housing, the Honourable Rich Coleman to express concern with the disposal of public land and building assets under the Non-Profit Asset Transfer Program, and request the Minister to provide for a long term plan to maintain public ownership of lands for non-market housing purposes to meet current and future community needs in the Province.

It is further recommended that a copy of this report be sent to Burnaby's MLAs, UBCM member municipalities, the Metro Vancouver Board and the City's Social Planning Committee.

Lou Pelletier, Director
PLANNING AND BUILDING

CS/MM/sa
Attachment
cc: City Manager
Deputy City Managers
Director Finance
City Clerk

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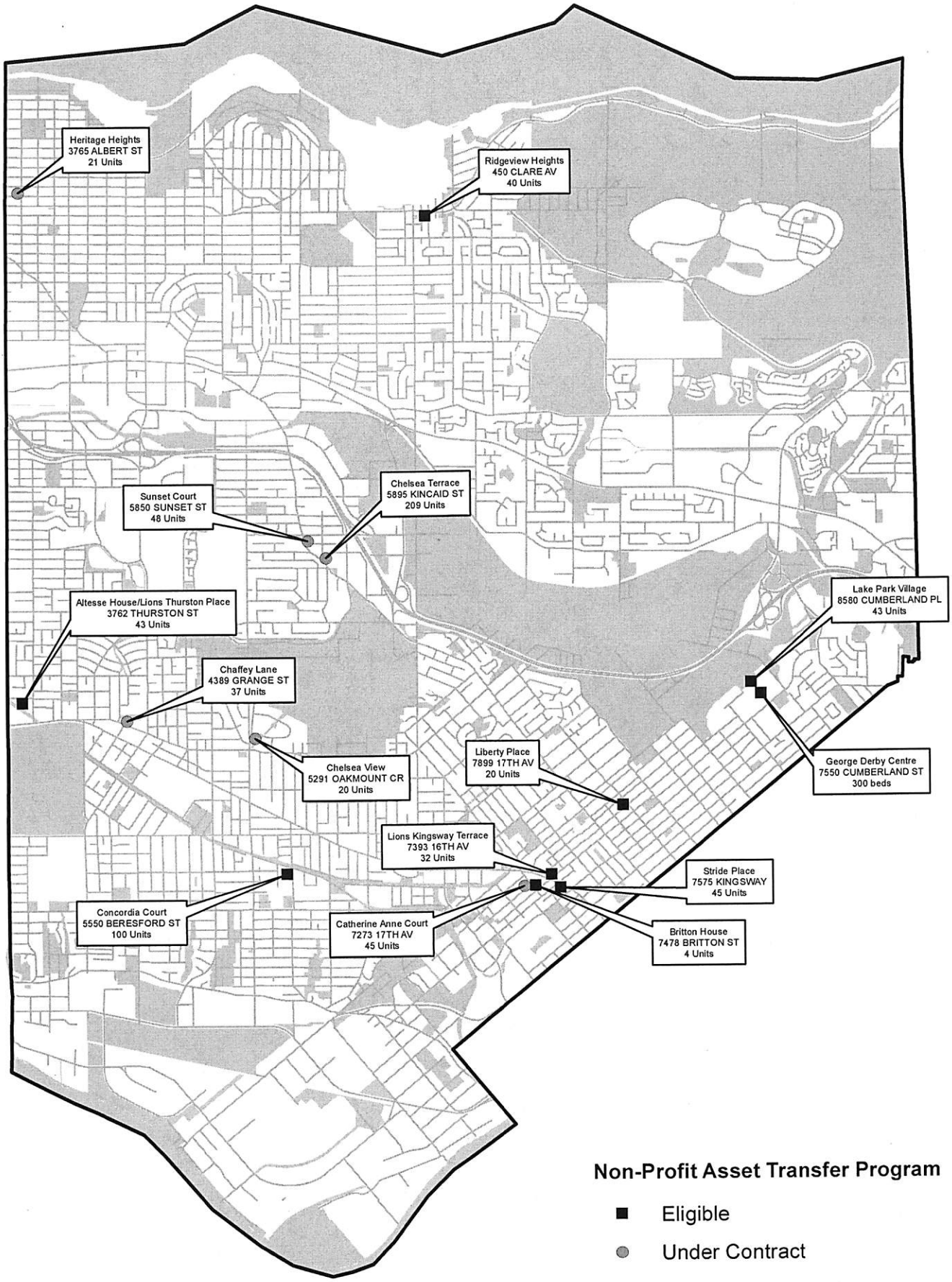
Appendix A


Heritage Heights
3765 ALBERT ST
21 Units
Ridgeview Heights
450 CLARE AV
40 Units
Sunset Court
5850 SUNSET ST
48 Units
Chelsea Terrace
5895 KINCAID ST
209 Units
Altesse House/Lions Thurston Place
3762 THURSTON ST
43 Units
Lake Park Village
8580 CUMBERLAND PL
43 Units
Chaffey Lane
4389 GRANGE ST
37 Units
Chelsea View
5291 OAKMOUNT CR
20 Units
Liberty Place
7899 17TH AV
20 Units
George Derby Centre
7550 CUMBERLAND ST
300 beds
Lions Kingsway Terrace
7393 16TH AV
32 Units
Stride Place
7575 KINGSWAY
45 Units
Concordia Court
5550 BERESFORD ST
100 Units
Catherine Anne Court
7273 17TH AV
45 Units
Britton House
7478 BRITTON ST
4 Units
Non-Profit Asset Transfer Program
Eligible
Under Contract