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REPORT TO CAPITAL REGIONAL DISTRICT BOARD MEETING OF WEDNESDAY, JUNE 12, 2024

SUBJECT **Bylaw No. 4613 - Resale Control and Housing Agreement Rescission Bylaw (604 Nelson Street), 2024**

ISSUE SUMMARY

The Capital Regional District (CRD) needs to approve a bylaw that discharges a Housing Agreement and restrictive covenant taken under Bylaw No. 4500 because the developer-initiated affordable housing proposed for 604 Nelson Street is not advancing. Bylaw No. 4613, "A Bylaw to Authorize Discharge of a Housing Agreement (604 Nelson Street)" is attached to this staff report as Appendix A.

BACKGROUND

The CRD's Regional Housing Division, through discussions with the Township of Esquimalt and Nelson Esquimalt Developments Ltd. (the Developer), agreed to enter into a Housing Agreement and restrictive covenant for 10 below-market resale units as part of a 109 residential strata unit development and one commercial unit development located at 604 Nelson Street in the Township of Esquimalt.

At its July 13, 2022, meeting, the CRD Board adopted Bylaw No. 4500, "Resale Control and Housing Agreement Bylaw (604 Nelson Street), to secure certain affordable housing in perpetuity, where perpetuity is 99 years or destruction of the building, whichever is longer". To support the Township of Esquimalt, the CRD entered into a Housing Agreement, restrictive covenant, and option to purchase such units with the CRD to administer resales of 10 below-market units within the development. A Housing Agreement is a statutory restriction on use set out under the *Local Government Act* and requires a bylaw amendment and consent of the owner in order to modify or change. These affordable resale Housing Agreements typically require resale of units at below-market rates of anywhere between 20% to 10%. The CRD's agreements are joined with a restrictive covenant, rent charge, and option to purchase to ensure compliance and purchaser awareness of terms.

Nelson Esquimalt Developments Ltd. has informed the CRD and Township of Esquimalt that the development as originally proposed will not advance. The Township of Esquimalt and the Developer have agreed to terms on a new Housing Agreement Bylaw which includes affordable rental options as part of the development. In order for the two parties to advance with the new agreement, the CRD needs to first discharge Bylaw No. 4500. The minutes from the March 18, 2024, meeting of the Corporation of the Township of Esquimalt where, under item 24-123, the Housing Agreement Bylaw and Rezoning Application was given first, second, and third reading is attached as Appendix B.

ALTERNATIVES

Alternative 1

- 1) That Bylaw No. 4613, "Resale Control and Housing Agreement Rescission Bylaw (604 Nelson Street), 2024", be introduced and read a first, second and third time; and
- 2) That Bylaw No. 4613 be adopted.

Alternative 2

That this report be referred back to staff for additional information based on Capital Regional District Board direction.

IMPLICATIONS

Service Delivery Implications

This decision will relieve the CRD and the property owner of the obligations in the Housing Agreement and restrictive covenant. It is consistent with the Township of Esquimalt's request and the current goals of the affordable home ownership program, which exists only to support regional housing service participants in administering Housing Agreements.

While it is disappointing the affordable units cannot be feasibly constructed by the developer, it is worth noting that the current affordable home ownership agreement only exists as the Township of Esquimalt encouraged it as part of the development in 2022. Changing market conditions are a known issue and concern with this program, as they also effect the ability of owners to resell properties and the ability of future purchasers to get financing to purchase even "affordable" units.

While the CRD Board is the ultimate authority and could choose to leave the Housing Agreement and restrictive covenant on title, this would not be in keeping with the goals of the affordable home ownership program, which exists only to support local governments in administering Housing Agreements. It would also not be in keeping with past practice, which has permitted discharge or abandonment of charges where projects cannot proceed (typically where rezoning is not granted).

Legal Implications

The *Local Government Act* requires any change or modification to a Housing Agreement to be done by bylaw. Adopting Bylaw No. 4613 permits the Housing Agreement to be discharged and that the Chair, Corporate Officer, or Chief Administrative Officer may sign instruments related to the discharge and take any actions necessary and incidental to affect the discharge.

CONCLUSION

The CRD agreed to enter into a Housing Agreement to administer resales of below market housing units. The project will not advance, and the Township of Esquimalt has approved that the CRD discharge the Housing Agreement and restrictive covenant.

RECOMMENDATION

- 1) That Bylaw No. 4613, "Resale Control and Housing Agreement Rescission Bylaw (604 Nelson Street), 2024", be introduced and read a first, second and third time; and
- 2) That Bylaw No. 4613 be adopted.

Submitted by:	Don Elliott, BA, MUP, Senior Manager, Regional Housing
Concurrence:	Kevin Lorette, P. Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Kristen Morley, J.D., General Manager, Corporate Services & Corporate Officer
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

ATTACHMENTS

Appendix A: Bylaw No. 4613

Appendix B: Minutes from the Corporation of the Township of Esquimalt, heard March 18, 2024