



Making a difference...together

**REPORT TO CAPITAL REGIONAL DISTRICT BOARD  
MEETING OF WEDNESDAY, AUGUST 10, 2022**

---

**SUBJECT 902 Foul Bay Road Housing Agreement and Bylaw – Agreement Rectification**

**ISSUE SUMMARY**

To modify the defined term included in an affordable housing agreement, previously adopted by Bylaw, for a development at 902 Foul Bay Road in the City of Victoria.

**BACKGROUND**

The CRD currently administers the resale control agreements on a number of below-market home ownership units within housing developments throughout the region. On July 13, 2022, the CRD adopted Bylaw No. 4501, “Resale Control and Housing Agreement Bylaw (902 Foul Bay)”, to secure four units of affordable housing in perpetuity, where perpetuity is 99 years or destruction of the building, whichever is longer.

However, an incorrect definition of “Term” was left in the housing agreement which went before the Board on July 13, 2022, whereby the term was the lesser, not the longer, of 99 years or the destruction of the building.

Consistent with the CRD’s Board’s intention to secure the affordable units and the intentions of Victoria, the Developer, and CRD as to the correct discussed definition of “Term”, the CRD and the Developer corrected the error and proceeded to registration with the corrected “Term” definition.

Given that section 483 of the *Local Government Act* requires any amendment to be done with consent of the owner and by bylaw, a bylaw affirming the correction to the housing agreement is recommended.

**ALTERNATIVES**

*Alternative 1*

1. That Bylaw No. 4511, “Resale Control and Housing Agreement Bylaw (902 Foul Bay Road), 2022, Amendment Bylaw No. 1, 2022” be introduced and read for a first, second and third time; and
2. That Bylaw No. 4511 be adopted.

*Alternative 2*

That the 902 Foul Bay Road Housing Agreement and Bylaw report be referred back to staff for additional information.

**IMPLICATIONS**

The *Local Government Act* requires modification to a housing agreement to be done with the consent of the owner and by bylaw. While the law of rectification and mutual mistake likely apply to consider the insertion of the correct definition of “Term” not a modification, it is wise to pass a bylaw to approve the correction and update the housing agreement notice in the Land Title Office, to ensure the units are property secured for affordable housing purposes.

**CONCLUSION**

The Developer, Victoria, and CRD staff had previously negotiated the “term” definition as agreed and while the agreement can be registered without a modification bylaw, in order to ensure consistency with the *Local Government Act*, a modification bylaw and updated housing agreement notice are recommended.

**RECOMMENDATION**

1. That Bylaw No. 4511, “Resale Control and Housing Agreement Bylaw (902 Foul Bay Road), 2022, Amendment Bylaw No. 1, 2022” be introduced and read for a first, second and third time; and
2. That Bylaw No. 4511 be adopted.

Submitted by:	Don Elliott, MUP, Senior Manager, Regional Housing
Concurrence:	Kevin Lorette, P. Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Steven Carey, Acting General Manager, Corporate Services & Corporate Officer
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

**ATTACHMENTS**

Appendix A: Bylaw No. 4511