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REPORT TO CAPITAL REGIONAL DISTRICT BOARD MEETING OF WEDNESDAY, FEBRUARY 14, 2024

SUBJECT **902 Foul Bay Road Housing Agreement Rescission Bylaw**

ISSUE SUMMARY

The Capital Regional District (CRD) needs to approve a bylaw that discharges a housing agreement and restrictive covenant taken under Bylaw No. 4501 because the developer-initiated affordable housing proposed for 902 Foul Bay Road is not advancing.

BACKGROUND

The CRD's Regional Housing Division, through discussions with the City of Victoria and Aryze (the Developer), agreed to enter into a housing agreement and restrictive covenant for four below-market resale units as part of an 18-unit development located at 902 Foul Bay Road in the City of Victoria.

At its August 10, 2022 meeting, the CRD Board approved Bylaw No. 4501, "Resale Control and Housing Agreement Bylaw (902 Foul Bay Road), 2022", to support the CRD entering into a Housing Agreement, restrictive covenant, and option to purchase such units with Aryze, to administer resales of four 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 10% to 20%. CRD's agreements are joined with a restrictive covenant, rent charge, and option to purchase to ensure compliance and purchaser awareness of the terms.

Aryze has informed the CRD and City of Victoria that the development as originally proposed cannot advance due to rising interest rates on construction financing. Aryze offered a financial contribution of \$60,000 to the City of Victoria's housing fund as an alternative, which was accepted by the City of Victoria at its December 7, 2023 meeting. Victoria City Council approved the CRD terminate the housing agreement and restrictive covenant.

ALTERNATIVES

Alternative 1

1. That Bylaw No. 4600, "Resale Control and Housing Agreement Rescission Bylaw (902 Foul Bay Road), 2024", be introduced and read a first, second and third time; and
2. That Bylaw No. 4600 be adopted.

Alternative 2

That this report be referred to staff for additional information based on CRD 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 City of Victoria'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. 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 regional housing service participants 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. Amending Bylaw No. 4600 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 with Aryze to administer resales of below-market housing units. The project will not advance and the City of Victoria Council has approved that CRD discharge the housing agreement and restrictive covenant.

RECOMMENDATION

1. That Bylaw No. 4600, “Resale Control and Housing Agreement Rescission Bylaw (902 Foul Bay Road), 2024”, be introduced and read a first, second and third time; and
2. That Bylaw No. 4600 be adopted.

Submitted by:	Don Elliott, 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. 4600
- Appendix B: Certified Copy of Resolution of City of Victoria