

CITY OF SURREY

BY-LAW NO. 16968

A by-law to authorize the City of Surrey to enter into a housing agreement
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WHEREAS the City of Surrey has received an application to enter into a housing agreement;

AND WHEREAS Section 905 of the Local Government Act, R.S.B.C. 1996 c. 323, as amended (the "*Local Government Act*") empowers the Council or the City of Surrey to enter into a housing agreement;

NOW THEREFORE, the Council of the City of Surrey, in open meeting assembled, ENACTS AS FOLLOWS:

1. The City of Surrey is hereby authorized and empowered to enter into a housing agreement in the form attached hereto as Schedule A and forming part of this By-law (the "Housing Agreement") with the following party:

PROVINCIAL RENTAL HOUSING CORPORATION
Inc. No. 52129 of 1701 - 4555 Kingsway, Burnaby, B.C. V5H 4V8

and with respect to those certain parcels or tracts of lands and premises, situate, lying and being in the City of Surrey, in the Province of British Columbia and being more particularly known and described as:

Portion of Parcel Identifier: 011-126-574
East 208 Feet Lot 29 Except: Firstly: Parcel "A" (Bylaw Plan 66430) and Secondly: Parcel "A" (Bylaw Plan NWP88369) of Section 26 Block 5 North Range 2 West New Westminster District Plan 5210, shown outlined on a Proposed Subdivision Plan attached hereto and forming part of this by-law as Schedule B, certified correct by P.G. Isaak, B.C.L.S. on the 8th day of May, 2009, containing 0.476 hectares and called Lot 1,

Portion of 13922 - 101 Avenue

(the "Lands")

2. The Mayor and Clerk are hereby empowered to execute the Housing Agreement on behalf of the City of Surrey.

3. The City of Surrey shall file in the Land Title Office a notice against the Lands in accordance with Section 905 of the Local Government Act, that the Lands are subject to the Housing Agreement.

4. This By-law shall be cited for all purposes as "Provincial Rental Housing Corporation Housing Agreement, Authorization By-law, 2009, No. 16968".

PASSED FIRST AND SECOND READINGS on the 29th day of June, 2009.

PASSED THIRD READING, AS AMENDED on the 16th day of November, 2009.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 30th day of November, 2009.

_____ MAYOR

_____ CLERK

CITY OF SURREY

HOUSING AGREEMENT

THIS AGREEMENT made the ____ day of _____, 2009.

BETWEEN

CITY OF SURREY, a Municipal Corporation having its municipal offices at
14245 - 56 Avenue, Surrey, British Columbia V3X 3A2

(the "City")

OF THE FIRST PART

AND:

PROVINCIAL RENTAL HOUSING CORPORATION

Inc. No. 52129 of 1701 - 4555 Kingsway, Burnaby, BC V5H 4V8

(the "PRHC")

OF THE SECOND PART

WHEREAS:

- A. The City is the current registered owner of those certain lands and premises located at 13922 - 101 Avenue, in the City of Surrey, in the Province of British Columbia, legally described as:

No PID Number

Lot 1 Section 26 Block 5 North Range 2 West New Westminster District Plan BCP ____

(the "Lands");
- B. The PRHC will lease the Lands from the City for a term of 60 years in order to construct a development on the Lands with the building having 52 affordable housing Dwelling Units for occupancy by Eligible Occupants (the "Development");
- C. Section 905 of the *Local Government Act*, R.S.B.C. 1996, Chapter 323, as amended, authorizes the City by by-law to enter into a housing agreement.

NOW THEREFORE in consideration of the premises herein and of the mutual covenants and agreements hereinafter set forth and contained herein and \$1.00 now paid by the City to the PRHC (the receipt of which is hereby acknowledged), the parties hereto covenant and agree each with the other as follows:

1. **DEFINED TERMS**

- 1.1 In and for the purpose of this Agreement, the following terms shall have the following meanings:
- (a) "Agreement" means this Housing Agreement and any amendments to or modifications of the same;
 - (b) "Dwelling Unit" means any dwelling unit in the Development that is constructed by the PRHC upon the Lands and is occupied and/or available for occupancy by an Eligible Occupant.
 - (c) "Eligible Occupant" means a person who:
 - i. Meets the following eligibility criteria:
 - a. Is 50 years of age or older, who is homeless or at-risk of being homeless, is in need of affordable supported housing and who currently resides or whose origin is in the City of Surrey; or
 - b. Has a disability and can live independently and qualify for a disability pension or is eligible for the disability tax credit; and
 - ii. Does not have:
 - a. Active substance abuse addictions; or
 - b. A criminal conviction of a violent offence.
 - (d) "Registered Owner of the Leasehold Interest in the Lands" means, at any given time, the then registered owner of the leasehold interest, or if more than one registered owner of the leasehold interest, the then registered owners of the leasehold interest in the Lands; and
 - (e) "Resident Building Caretaker" shall mean a person who is employed by the Registered Owner of the Leasehold Interest in the Lands, to manage the Development and for whom a maximum of one Dwelling Unit may be designated as a residence.
 - (f) "Term" shall mean the period commencing on the date of this Agreement and continuing in full force and effect for 60 years.
- 1.2 The captions, section numbers and article numbers appearing in this Agreement are inserted for convenience of reference and shall in no way define, limit, construe or describe the scope of intent of this Agreement or in any way affect this Agreement.
- 1.3 Words importing the singular number only shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter gender and vice versa, and words importing persons shall include firms and corporations and vice versa.
- 1.4 Unless otherwise stated, a reference in this Agreement to a numbered or lettered article, section, paragraph or clause refers to the articles, section, paragraph or clause bearing that number or letter in this Agreement.
- 1.5 The words "hereof", "herein" and similar expressions used in any section, paragraph or clause of this Agreement shall relate to the whole of this Agreement and not to that section, paragraph or clause only unless otherwise expressly provided.

2. RESTRICTION ON OCCUPANCY OF DWELLING UNITS

- 2.1 During the Term, only an Eligible Occupant may occupy any Dwelling Unit, with the exception of one Dwelling Unit which may be occupied by the Resident Building Caretaker.
- 2.2 The City may, from time to time, request the Registered Owner of the Leasehold Interest in the Lands to provide written proof of compliance with section 2.1 and the Registered owner of the Leasehold Interest in the Lands agrees to provide the City with such proof in a form reasonably satisfactory to the City.
- 2.3 During the Term, the building shall not be stratified.

3. ENFORCEMENT

- 3.1 If the Registered Owner of the Leasehold Interest of the Lands fails to enforce compliance with the terms and conditions of Part 2, then it is specifically understood and agreed that the City will be entitled, but will not be obliged, to enforce the terms and conditions of Part 2.
- 3.2 For the purpose of this Agreement, the Registered owner of the Leasehold Interest in the Lands, without the need for further authorization, writing, or documents, hereby irrevocably appoints the City as its agent with respect to the enforcement of this Agreement and with respect to exercising all remedies set out in this Agreement and all other remedies available at law to the Registered Owner of the Leasehold Interest in the Lands that relate to this Agreement.

4. LIABILITY

- 4.1 The Registered Owner of the Leasehold Interest in the Lands will indemnify and save 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 reasons of or arising out of failure of the Registered Owner of the Leasehold Interest in the Lands to comply with the terms and conditions of this Agreement.
- 4.2 Provided the City is in compliance with the terms and conditions of this Agreement, the Registered Owner of the Leasehold Interest in the lands 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 Registered Owner of the Leasehold Interest in the Lands now has or hereafter may have with respect to or by reasons of or arising out of the fact that the Lands are encumbered by and affected by this Agreement.

5. NOTICE

5.1 Any notices or other documents to be given or delivered pursuant to this Agreement will be addressed to the proper party as follows:

(a) as to the City of Surrey:

14245 - 56 Avenue
Surrey, British Columbia V3X 3A2
Attention General Manager, Planning and Development Department

(b) as to PRHC:

Provincial Rental Housing Corporation
1701 - 4555 Kingsway
Burnaby, British Columbia V5H 4V8
Attention: Manager, Real Estate Services

or such other address as such party may direct. Any notice or other documents to be given or delivered pursuant to this Agreement will be sufficient given or delivered if delivered to the particular party as its address set out or determined in accordance with this section and shall be deemed complete two (2) days after the day of delivery.

5.2 It is specifically agreed that for any notice or document to be validly given or delivered pursuant to this Agreement, such notice or document must be delivered and not mailed.

6. GENERAL

6.1 Nothing in this Agreement:

(a) affects or limits any discretion, rights, powers, duties or obligations of the City under any enactment or at common law, including in relation to the uses or subdivision of land; and

(b) relieves the Registered Owner of the Leasehold Interest in the Lands from complying with any enactment, including the City's By-laws.

6.2 An alleged waiver by a party of any breach by another party of its obligations under this Agreement will be effective only if it is an express waiver of the breach in writing. No waiver of a breach of this Agreement is deemed or construed to be a consent or waiver of any other breach of this Agreement.

6.3 Time is of the essence of this Agreement. If any party waives this requirement, that party may reinstate it by delivering notice to the other party.

6.4 This Agreement shall be construed in accordance with and governed by the laws of the Province of British Columbia.

- 6.5 If a court of competent jurisdiction finds that any part of this Agreement is invalid, illegal or unenforceable, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 6.6 Upon request by the City, the Registered Owner of the Leasehold Interest in the Lands will promptly do such acts and execute such documents as the City may reasonably require, in the opinion of the City, to give effect to this Agreement.
- 6.7 This is the entire Agreement between and among the parties concerning the subject matter of this Agreement and there are no warranties, representations, conditions or collateral agreements relating to this Agreement, except as included in this Agreement.
- 6.8 This Agreement may be enforced by prohibitory and mandatory court order of the Court. In any action to enforce this Agreement, the City shall be entitled to court costs on a solicitor and own client basis.
- 6.9 This Agreement shall ensure to the benefit of and be binding upon PRHC, the Registered Owner of the Leasehold Interest in the Lands and its successors and assigns and all parties claiming through them and this Agreement shall ensure to the benefit of and be binding upon the City and its successors and assigns. This Agreement shall charge and run with the Lands.
- 6.10 No previous registered owner of the leasehold interest of the Lands will be liable for any default in the performance or observance of this Agreement occurring after such party ceases to hold an ownership in the Lands.

IN WITNESS WHEREOF the City of Surrey and Provincial Rental Housing Corporation have executed this Agreement under seal of their duly authorized officers as of the reference date of this Agreement.

CITY OF SURREY

by its authorized signatory(ies):

Mayor Dianne Watts
City of Surrey

Jane Sullivan
City Clerk

PROVINCIAL RENTAL HOUSING CORPORATION

by its authorized signatory(ies):

Name

Print Name

Name

Print Name

