

## **STAFF REPORT TO COUNCIL**

**PRESENTED:** April 26, 2022  
**FROM:** Planning - Development  
**SUBJECT:** RZ001144 – HOUSING AGREEMENT BYLAW (2077 GARIBALDI WAY) NO. 2327, 2022 REPORT

**REPORT:** 22-058  
**FILE:** RZ001144

### **RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER**

**That** the recommendation of the General Manager of Resort Experience be endorsed.

### **RECOMMENDATION(S)**

**That** Council consider giving first, second and third readings to “Housing Agreement Bylaw (2077 Garibaldi Way) No. 2327, 2022.

### **PURPOSE OF REPORT**

This report requests consideration of first, second, and third readings for “Housing Agreement Bylaw (2077 Garibaldi Way) No. 2327, 2022” (Housing Agreement Bylaw) associated with the for-purchase employee and market townhouse development located at 2077 Garibaldi Way proposed under rezoning application RZ001144. The Housing Agreement Bylaw will authorize the Resort Municipality of Whistler (RMOW) to register a housing agreement for the proposed development to establish occupancy and eligibility restrictions, initial sale price and subsequent sale price restrictions, rental restrictions and administration and management of the housing units that reflect current municipal employee housing policy and site specific terms for 14 of the 20 proposed townhouse dwelling units.

### **DISCUSSION**

#### **Background**

On November 16, 2021 Council considered and gave first and second readings to “Official Community Plan Amendment Bylaw (2077 Garibaldi Way) No. 2290, 2021” and “Zoning Amendment Bylaw (2077 Garibaldi Way) No. 2291, 2021”. This was followed by a Public Hearing held on December 14, 2021. Third reading for both bylaws was given by Council on February 22, 2022. These bylaws are necessary to implement the proposed employee and market townhouse development at 2077 Garibaldi Way under rezoning application RZ001144, an application being considered under the RMOW’s Private Sector Employee Housing Initiative.

Specifically, “Zoning Amendment Bylaw (2077 Garibaldi Way) No. 2291, 2021” proposes to rezone the lands located at 2077 Garibaldi Way to RM74 (Residential Multiple Seventy-Four) Zone, a site specific multi-family zone to provide for 20 townhouse dwelling units, provided that the first 14 townhouse dwelling units must be for employee housing only. When Council granted first and second readings to the bylaw, Council also passed a resolution requiring registration of a housing agreement in favour of

the RMOW to set the maximum initial sales price at \$559 per square foot for the employee townhouses and to define key terms for a private sector for purchase development consistent with that presented in RMOW Standard Housing Agreements for Affordable Employee Housing Developments Report No. 21-122.

This report presents the Housing Agreement Bylaw for Council's consideration of first, second and third readings.

Housing agreements must be adopted by bylaw approved by Council; the proposed housing agreement is attached to the Housing Agreement Bylaw so that it is clear what terms and conditions are being authorized. Once the Housing Agreement Bylaw is adopted, a notice is placed on the title of the property requiring all subsequent owners to be bound by the terms of the housing agreement. The housing agreement will also be registered as a Section 219 restrictive covenant. Section 219 covenants may be registered in favour of the local government and run with the land, irrespective of ownership. Whistler's employee housing agreements and covenants are drafted to be effective in perpetuity.

### **Analysis**

One of the primary objectives of the proposed development at 2077 Garibaldi Way is to support the current and future housing needs of the community by providing an appropriate mix of high quality affordable employee and market-based housing. The housing agreement attached to the Housing Agreement Bylaw will assist the RMOW with achieving these objectives by establishing occupancy and purchase eligibility restrictions, initial sale price and subsequent sale price restrictions, and administration and management of the housing units that reflect current municipal employee housing policy and site specific terms for sales prices for 14 of the 20 proposed townhouse units proposed at 2077 Garibaldi Way.

The housing agreement proposed for registration on 2077 Garibaldi Way is based on the updated agreement template received by Council on November 2, 2021, and reflects current eligibility and purchase policies.

Project specific terms of the proposed housing agreement include:

#### **Development Restrictions and Designation of Employee Units (all capitalized terms used in this report are defined in the proposed housing agreement attached as Schedule A to the Housing Agreement Bylaw)**

- The land shall not be built-upon except in accordance with the Development Plans attached as Schedule A of the proposed housing agreement, which provide for the construction of 20 Dwelling Units;
- The 14 Dwelling Units shown on the Development Plans in Buildings A and B are designated Employee Units;
- Buildings A and B as shown on the Development Plans must be constructed prior to or concurrently with the construction of Buildings C and D which house the market dwelling units;
- No Dwelling Unit on the land may be occupied for any purpose until:
  - the 14 Employee Units have been constructed to completion in accordance with the Development Plans, and the RMOW has issued occupancy permits for all such Employee Units;

- the land has been subdivided such that separate indefeasible titles have been raised in the Land Title Office (LTO) for each Employee Unit on the land, as individual parcels or strata lots; and
- the Owner has granted the right of first refusal and option to purchase (Option/RFR) to the RMOW in relation to each Employee Unit and caused the Option/RFR to be registered in the LTO against title to each Employee Unit.

#### Employee Unit Occupation

- An Employee Unit may not be occupied or otherwise used for any purpose until it has been sold or transferred to a Qualified Person in accordance with the housing agreement.
- Despite the above restriction, if the Owner has made documented best efforts to sell the Employee Unit to a Qualified Person but has been unable sell it for Maximum Price on or before the date of issuance of an occupancy permit, then that Employee Unit may be rented to a Qualified Person for a period of up to one year at the maximum rental rate established in the agreement. Such occupation is pursuant to a fixed term Tenancy Agreement that requires that the Employee Unit be vacated at the end of the fixed term of one year.

The rationale for inclusion of the point above is to support the ability to obtain financing for the project by allowing for rental of any un-sold units for a period of up to one year.

#### Option/RFR

- The Option/RFR granted or to be granted by the Owner to the RMOW in respect of each Employee Unit is attached as Schedule D to the housing agreement so that it can be registered with the housing agreement as one charge on title for ease of use and future reference. The Option/RFR is based on the RMOW's most current Standard Charge Terms ST080103, adjusted to be consistent with the housing agreement.

#### Sales Price and Purchase Restrictions

- The maximum initial sales price shall be \$559 per square foot multiplied by the Gross Floor Area of the Employee Unit, increased by the same percentage as the percentage increase, if any, in the Consumer Price Index (CPI) for Canada, all-items, excluding eight of the most volatile components and the effect of changes in indirect taxes (CPIX), since the date of registration of the Housing Agreement.
- Establishes subsequent sales price appreciation after the first sale and linked to the rate of CPI.
- An Employee Unit may not be sold or transferred except to a Qualified Person and except in accordance with the terms and conditions of the housing agreement, the Option/RFR and the resale policies of Whistler Housing Authority (WHA).
- The Owner must first make the Employee Unit available for sale to Qualified Persons on the WHA waitlist in accordance with waitlist priority and shall not otherwise be permitted to sell the Employee Unit to any other Qualified Person unless they have been unable to enter into a contract for the sale of the Employee Unit with a Qualified Person on the waitlist for the Maximum Price for a period of 60 days.

#### Rent Price and Rent Restrictions

- The maximum rent shall be \$2.75 per square foot multiplied by the Gross Floor Area of the Employee Unit.
- The maximum room rental rate shall be \$1,000 per month.
- The maximum rent and maximum room rental rate may be increased by the same percentage as the percentage increase, if any, in CPI since the date of registration of the Housing Agreement. The use of CPI is recommended to allow rent appreciation consistent with inflation; this differs from the housing agreement key terms received by Council on November 2, 2021 which contemplated allowing maximum allowable rent increases as established by the BC Rental Tenancy Office;
- WHA waitlist priority applies only to the sale of units – homeowners may choose renters, as long as renters meet the requirements for employee or retiree.

### Enforcement

- Introduces a rent charge (financial penalty) to be paid by the unit owner to the RMOW if the dwelling unit is used or occupied in breach of the housing agreement. The rent charge is set at \$700 per day, increased by the CPI.
- Establishes a statutory occupancy declaration requirement to confirm compliance with the terms of the housing agreement.

Other terms of the housing agreement, including the definitions for employee, retiree and qualified business that establish eligibility, are in accordance with the standard housing agreement as presented to Council on November 2, 2021.

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## **POLICY CONSIDERATIONS**

### **Relevant Council Authority/Previous Decisions**

Section 483 of the *Local Government Act* provides the authority for local governments to enter into agreements for affordable housing that restrict the occupants and address matters including the form of tenure, rents and leases, sale prices, and administration and management of the housing units.

Previous relevant Council decisions related to the proposed development at 2077 Garibaldi Way being considered under rezoning application RZ001144 are listed below:

[February 22, 2022: Administrative Report No. 22-027](#) – RZ001144 – Public Hearing Summary and Third Reading Consideration for “Official Community Plan Amendment Bylaw (2077 Garibaldi Way) No. 2290, 2021” and “Zoning Amendment Bylaw (2077 Garibaldi Way) No. 2291, 2021”

[November 16, 2021: Administrative Report No. 21-128](#) – 2077 Garibaldi Way OCP and Zoning Amendment Bylaws for Employee and Market Housing

This report provides an analysis for the proposed development and requests Council’s consideration of first and second readings to “Official Community Plan Amendment Bylaw (2077 Garibaldi Way) No. 2290, 2021” (OCP Bylaw) and first and second readings to “Zoning Amendment Bylaw (2077 Garibaldi Way) No. 2291, 2021” (Zoning Bylaw).

[November 2, 2021: Information Report No. 21-122](#) - RMOW Standard Housing Agreements for Affordable Employee Housing Developments

This report provides background information and an analysis of housing agreement key terms for Council understanding and discussion in advance of receiving proposed housing agreements for consideration relative to active private and public affordable employee housing development proposals.

### **Corporate Plan**

The RMOW Corporate Plan is updated annually and articulates strategic direction for the organization. This section identifies how this report links to the plan.

#### **Council Focus Areas**

☒ Community Balance

*Effectively **balance resort and community needs** through deliberate planning, partnerships and investment*

☐ Climate Action

*Provide leadership to **accelerate climate action and environmental performance** across the community*

☒ Housing

*Advance strategic and innovative initiatives to enable and **deliver additional employee housing***

☐ Pandemic Recovery

*Leadership and support for **community and tourism recovery and sustainability** – priority focuses are where recovery needs intersect with other Council focus areas*

☐ Not Applicable

### **Community Vision and Official Community Plan**

The Official Community Plan (OCP) is the RMOW's most important guiding document that sets the community vision and long-term community direction. This section identifies how this report applies to the OCP.

The OCP recognized a critical need for additional employee and market housing, supporting development of the lands at 2077 Garibaldi Way. The OCP specified a target to strive for the addition of 1,000 new employee beds over the next 5 years (2019 – 2023). (Objective 5.1.2).

5.1.3.1 Policy: calls for the RMOW to “Maintain an inventory of employee housing in perpetuity, for rental and ownership tenures, to be available for employees.”

The use of housing agreements is an essential tool in achieving the RMOW's OCP goals and objectives related to securing and maintaining affordable employee housing for the Whistler resort

community. The following OCP policies also provide guidance for the development of these agreements:

5.1.3.2. Policy: Use housing agreements, covenants and bylaws to ensure housing is occupied as intended for employee housing; and

5.1.2.8. Policy: Ensure employee housing is occupied consistent with restrictions related to price, use, resale, eligibility and other conditions.

The Housing Agreement Bylaw will ensure that the development proposed for 2077 Garibaldi Way facilitates the creation of employee housing in perpetuity aligned with current municipal policies and goals for affordable employee housing.

## BUDGET CONSIDERATIONS

Costs associated with development of project specific housing agreements for proposed developments, are recovered through rezoning and development application fees. Costs associated with administering housing agreements are provided for through RMOW and WHA operating budgets.

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## LIL'WAT NATION & SQUAMISH NATION CONSIDERATIONS

The RMOW is committed to working with the Lil'wat People, known in their language as *L'il'wat7úl* and the Squamish People, known in their language as the *Skwxwú7mesh Úxwumixw* to: create an enduring relationship; establish collaborative processes for Crown land planning; achieve mutual objectives; and enable participation in Whistler's resort economy.

Members of the Lil'wat Nation and Squamish Nation may be eligible to purchase the employee housing units at 2077 Garibaldi Way to the extent that they meet the eligibility requirements of the housing agreement attached to the Housing Agreement Bylaw.

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## COMMUNITY ENGAGEMENT

Level of community engagement commitment for this project:

☒ Inform      ☐ Consult      ☐ Involve      ☐ Collaborate      ☐ Empower

Comment(s):

Under the *Local Government Act*, a housing agreement bylaw does not require a Public Hearing or public notification.

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## REFERENCES

Housing Agreement Bylaw (2077 Garibaldi Way) No. 2327, 2022 (included in Council Package)

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## SUMMARY

This report requests consideration of first, second, and third readings for “Housing Agreement Bylaw (2077 Garibaldi Way) No. 2327, 2022” to authorize registration of a housing agreement over 2077 Garibaldi Way. The housing agreement establishes occupancy and eligibility restrictions, initial sale price and subsequent sale price restrictions, and administration and management for 14 of the 20 proposed townhouse dwelling units.

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## SIGN-OFFS

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Mike Kirkegaard for Jessie Gresley-Jones,  
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Ted Battiston,  
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