

MEMO

Date: June 28, 2022

To: Mayor and Council

From: Robert Risso, Strata Title President, on behalf of the Strata Owners of Oboe Place and Piccolo Drive

Purpose

Initiate a pilot project to maintain current Residential Occupancy Covenants through a Housing Agreement, rather than the previous leasehold instruments dating from the early 1990s that apply to 18 homeowners at Oboe Place and Piccolo Drive.

There about 200 properties in Whistler that have this form of lease. Upon successful completion of the pilot, other leasehold owners could initiate a similar process.

Rationale

At its meeting of October 9, 2019, the Oboe Place and Piccolo Drive homeowners resolved to approach the Whistler Housing Authority (WHA) for assistance in investigating alternatives to maintaining current Residential Occupancy Covenants. They requested that mechanisms be explored to terminate the current leasehold arrangement in favour of a system that better advances housing affordability.

Our strata members acknowledge the leadership role the Whistler Housing Authority has played in providing affordable housing and building strong communities for Whistler residents. The tools used by the WHA have been a model for municipalities across BC and Canada.

It is our understanding that at the time the leasehold provisions were initiated for Oboe Place and Piccolo Drive homeowners, it was the only tool available to the Housing Authority to ensure residential occupancy policy was implemented and it was considered an effective and innovative action to protect workforce housing. It is also our understanding that the sole intent of the leasehold provision was to implement residential occupancy policy.

We find ourselves in a very different situation where in fact the leasehold provision is working against housing affordability objectives in many ways:

- 1) Leaseholders are not eligible for property tax deferral. The Province has had a longstanding property tax deferral policy in place to help aging residents stay in their own community and continue to contribute to the stability and diversity of their neighbourhoods. Many of the strata homeowners are now 55 years of age or older.

Property tax deferral is a significant affordability measure, often resulting in the equivalent of at least annual Old Age Security payments, in the range of \$6000 a year. There are also many families with children at home or at university. They would be eligible for the Families with Children tax deferral program. Details can be found here. [Apply for or renew a property tax deferral program application - Province of British Columbia \(gov.bc.ca\)](https://www2.gov.bc.ca/gov.bc.ca/property_tax_deferral_program_application.htm)

- 2) Securing mortgages from conventional banks are now possible on leasehold properties. However, the banks are unwilling to extend a Line of Credit on a leasehold property. Blue Shore Financial is the only financial institution that allows a Line of Credit. Homeowners who require a Line of Credit, therefore have only one financing choice and it may lead to higher monthly mortgage repayments.
- 3) The closer the property gets to the lease expiry date, the more difficult it may be to secure a mortgage. For example, a lease agreement from the Lorimer Ridge Lease dated 1993 with the 60-year lease term will expire in 2053. It is possible that a homeowner could be seeking a 30-year mortgage term, so that means as early as next year, 2023, the lease expiry date could become a problem. There are provisions in the current leases to extend the lease for two additional 60- year terms. However, the lease renewal process may create additional complications for the homeowner securing competitive finance rates.
- 4) Whistler needs a wide spectrum of housing choices to remain attractive to a diverse short and long term labour force, especially in view of growing labour competition.

Staff Position

We approached WHA staff and municipal staff several times over the last three years. We also prepared strata council resolutions which were forwarded to staff and prepared a memo outlining our position. WHA staff said that they did not have an issue with the change to Housing Agreements and termination of the current leases. They informed us that municipal staff would need to initiate the changes through bylaw.

In May 2022 staff let us know that they would fit this issue into their work program in June 2022. We feel that it is important to have an initial meeting to explain the unique complexities of our request.

Discussion of Pros and Cons of Proposal

Below is a short discussion on the pros and cons of the proposal, in order to identify the interests of the municipality, the Whistler Housing Authority, and our own homeowner's interests.

Municipal Interests

We understand that municipalities generally do not want to give up leasehold land in that it may close doors on the future use of the lands. However, in this case, the zoning bylaw and Official Community Plan identify the long-term use of the subject lands as market housing, with accompanying residential occupancy regulations. ***The initial intent of the leasehold provision was to advance residential occupancy regulations, not to hold the land in perpetuity through leases.***

The municipality can best advance its affordability objectives by continuing to apply the current residential occupancy covenants through a Housing Agreement and eliminate the current leases. There are 18 strata homeowners in total affected by this proposal. On Piccolo Drive, 10 of the homes are currently freehold, creating a mixture of leasehold and freehold on the same street. This peculiar situation highlights the inequity of the current system.

Use of the Housing Agreements instead of the leases will ensure that Council is continuing to pursue housing affordability objectives and treating residents fairly. Presenting the facts in a transparent way, and through the help of the mandatory municipal public hearing process, it will be clear that Council is not opening the door to other types of land transfers.

The proposal will require some staff resource time in the bylaw enactment process and legal costs associated with changing titles. The strata corporation is willing to absorb these costs.

Whistler Housing Authority Interests

The WHA's central interest is to uphold its successful residential occupancy policy objectives. Housing agreements, in place of leases, are easier to administer as it will not involve the renewal of leases. The restricted covenants are registered on title and no action is required by the WHA other than continuation of current enforcement procedures to ensure new buyers comply to the occupancy regulations.

As discussed above, the WHA also needs to demonstrate to the community that they are not opening the door to the abolishment of other leasehold arrangements, if it is desirable in other circumstances to maintain those leasehold arrangements. This will be done through the transparency of the bylaw enactment process.

The proposal has some immediate staff resource time in the termination of leases, but the termination will reduce WHA administrative costs in the long run.

Strata Homeowner Interests

We support the current policy of placing restrictions on residential occupancy. This has helped all of us secure housing in Whistler, as employees and retirees. At the same time, it has built a strong community and neighbourhood.

Our proposal reinforces the occupancy restrictions but at the same time brings us the opportunity of increased affordability, through deferral of property taxes and wider home financing arrangements.

In discussion with other homeowners, most if not all, were unaware that homeowners with leasehold properties were not eligible for provincial tax deferral programs.

It is our understanding that 100% of our homeowners must agree for this transfer to freehold strata to occur.

Conclusion

We seek to initiate the process for what we see as a potential win-win-win for the municipality, the Housing Authority, and existing and future homeowners of Oboe Place and Piccolo Drive. We feel our leases are obsolete and a simple change to a Housing Agreement will maintain the current Residential Occupancy Covenants. This will enable families with children and seniors to have access to the provincial property tax deferral system, as well as access to broader home financing alternatives.