



RESORT MUNICIPALITY OF WHISTLER

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STAFF REPORT TO COUNCIL

PRESENTED: December 17, 2024 **REPORT:** 24-113
FROM: Planning - Development **FILE:** 2450-20-0188
SUBJECT: CM000188 – THE LANDING AT 2077 GARIBALDI WAY – MODIFY HOUSING AGREEMENT

RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

That the recommendation of the General Manager of Climate Action, Planning and Development Services be endorsed.

RECOMMENDATION(S)

That Council does not authorize staff to prepare a new housing agreement bylaw to increase the initial maximum sale price for the 14 employee dwelling units located at 2077 Garibaldi Way that would replace the existing housing agreement and covenant registered on the property title as CB120019.

PURPOSE OF REPORT

This report presents Covenant Modification (CM) CM000188 for Council's consideration to replace the housing agreement (HA) and covenant registered on the property title as CB120019 (Existing HA) with a new HA to set a higher initial maximum sale price for the 14 employee dwelling units (EDU) located at 2077 Garibaldi Way (The Landing).

Specifically, the owner is requesting that the initial maximum sale price be increased by 16.1 per cent. This equates to an initial maximum sale price increase from \$591.53 (\$559 adjusted for the allowable increase in the Consumer Price Index for Canada (CPI) since the registration of the Existing HA to \$681.53 per square foot of gross floor area (GFA) for each EDU.

This report recommends that Council **not authorize staff** to prepare a new HA bylaw to increase the initial maximum sale price for the 14 EDUs.

Information Report

Administrative Report (Decision or Direction)

DISCUSSION

Key Ideas

The owner is requesting that the initial maximum sale price be increased from \$591.53 (\$559 adjusted for CPI) per square foot to \$681.53 per square foot for the 14 EDUs located at The Landing.

A change to the maximum initial sales price must be approved through a new HA bylaw adopted by Council to replace the Existing HA registered on the property title. Any new HA bylaw would not be adopted until January 23, 2025, at best, causing further delay to employee purchase and occupation of the 14 EDUs for employees who have taken the necessary steps to purchase these units.

The process and risk were articulated at time of approval of bylaw for the initial HA, with the owner agreeing to a HA and covenant that is binding. There are no extenuating circumstances at this time that support reconsideration of the Existing HA, and reconsideration of the Existing HA would cause further delay to employee purchase and occupation of the EDUs.

Background

On October 21, 2024, the owner submitted a CM application requesting to increase the initial maximum sale price for the 14 EDUs located at The Landing.

The initial maximum sale price for the 14 EDUs at The Landing is set by the Existing HA adopted by Council through “Housing Agreement Bylaw (2077 Garibaldi Way) No. 2327, 2022” (Bylaw No. 2327). Council gave first, second and third readings to Bylaw No. 2327 on [April 26, 2022](#) and adopted on May 10, 2022. After adoption, a notice was placed on the title of the property requiring all subsequent owners to be bound by the terms of the Existing HA. In addition, the Existing HA was registered as a section 219 restrictive covenant on the property title on July 29, 2022. Section 219 covenants may be registered in favour of the local government and run with the land, irrespective of ownership. Whistler’s employee HAs and covenants are drafted to be effective in perpetuity.

The Existing HA establishes occupancy and purchase 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 (EH) policy and site-specific terms for the 14 EDUs at The Landing. Specifically, the Existing HA set the maximum initial sales price at \$559 per square foot multiplied by the GFA of the EDUs, increased by the same percentage as the percentage increase, if any, in CPI since the date of registration of the Existing HA. The owner proposed this initial sales price through their rezoning application RZ001144 that was considered under the municipality’s [Private Sector EH Initiative](#) (PSEHI) to allow the private development of residential restricted housing on underdeveloped private lands.

In a July 18, 2024 meeting with staff, the owner expressed concern that they had to absorb a substantial increase in construction costs since the July 29, 2022 filing date of their Existing HA as compared to the CPI increase allowed by the Existing HA, and that the housing construction index had increased by 16.1 per cent while CPI only increased by 4.6 per cent in the same time period. The owner followed up with several emails requesting that staff recommend an increase to the selling price of the 14 EDUs.

Staff responded verbally in July 2024 and in a September 2024 letter, that staff are not supportive of recommending an increase to the initial maximum sale price including an explanation of why. The reasons for non-support relative to the owner’s request are articulated in detail in the Analysis section of this report. Staff note that pre-sales schedule had already been shared with the Whistler Housing Authority (WHA) Ownership Waitlist outlining the steps for interested buyers, the Notice of Intent to Purchase deadline has passed on June 21, 2024, two Open Houses were held and contract signing dates were targeted.

On October 21, 2024, the owners submitted a CM application for Council consideration of an increase to the initial maximum sale price. On November 12, 2024, the owner’s representative notified the WHA

that delays in releasing pricing would affect the contract signing date, and further details would be provided when available.

Analysis

The owner is seeking a 16.1 per cent increase, which equates to an initial maximum sale price increase from \$591.53 per square foot (\$559 adjusted for the allowable increase in CPI) to \$681.53 per square foot for each EDU.

The 16.1 per cent increase reflects the change in building construction price indexes for townhouses for census metropolitan areas since 2022, the year their project was approved, as supported in the owner's rationale letters attached as Appendix A. In Appendix A the owner explains their request warrants consideration for reasons of precedent, substantial construction cost increase, extended approval process, equitable treatment, community benefit and urgency.

This section provides an analysis relative to the owner's request.

Substantial Cost Increase

The 16.1 per cent increase requested by the owner reflects the change in building construction price indexes for townhouses for census metropolitan areas since 2022, the year their project was approved, as supported in their rationale letters attached as Appendix A.

The owner committed to the maximum initial sales price prior to the approval of their rezoning application RZ001144. It is the responsibility of the owner, in this negotiation, to understand and accept the terms they are agreeing to and were party to establishing the price used in the HA. The rezoning proposal was considered under the PSEHI to allow the private development of residential restricted housing on underdeveloped private lands in which [Guidelines](#) were endorsed by Council on December 5, 2017 and a [process](#) was endorsed by Council on April 24, 2018. [Updated Guidelines](#) were endorsed by Council on March 26, 2019.

The PSEHI was a recommendation of the Mayor's Task Force on Resident Housing and the final report of the Task Force identified it as an important initiative as it enables a sharing of risk with the private sector when developing housing for the community.

Through their rezoning application the owner agreed to a HA and covenant that were binding, wherein initial maximum sales price and maximum monthly rents were established prior to zoning adoption and secured through Bylaw No. 2327 adopted by Council on May 10, 2022 and registered as a section 219 restrictive covenant on the property title, consistent with the [Updated Guidelines](#), and in particular guideline 6: "Initial sales prices and maximum monthly rents will be established prior to project approval and secured through a Housing Agreement Bylaw and Housing Covenant".

Extended Approval Process

The PSEHI [process](#) endorsed by Council provided proposed target dates for delivery of private sector EH, which included a September 2018 – June 2019 rezoning and development permit timeline, noting that timeline may vary depending on application, and a July 2019 – December 2023 Building Permit (BP) and construction timeline.

The approval process for The Landing included rezoning, development permit (DP) and BP issuance. The rezoning application was submitted on November 21, 2017, and the rezoning process involved several iterations of the proposal from a 74-unit employee rental apartment development ([Administrative Report No. 17-142, p. 295](#)) to a 48-unit employee rental townhouse development

[\(Administrative Report No. 18-117, p. 12\)](#) and finally to a 20-unit for-purchase residential townhouse development ([Administrative Report No. 20-105](#)) of which 14 units were allocated to EH. Council endorsed further review of the 20-unit proposal on May 5, 2020, and the associated bylaws were adopted on August 2, 2022.

The DP application was submitted on December 1, 2021, and the August 15, 2022 issuance of the DP occurred within months of zoning adoption. The site alteration permit application was submitted on July 28, 2022, and issued on October 14, 2022, enabling site works to start, and the BP applications for building construction were submitted on November 29, 2022 and issued on September 14, 2023.

Although available staff resources were applied to each application considered under the PSEHI, each application was reviewed on its own merits, and each evolved from its original submission through staff analysis, neighbour feedback and public hearing comments, affecting total processing timelines. The process met expected timelines and followed standard procedures for rezoning, including public hearing and permitting considerations.

Precedent

The owner explains that reconsideration of the 5298 Alta Lake Road HA ([Administrative Report No. 24-065](#)) demonstrates flexibility in adjusting such agreement when circumstances warrant. Staff reiterate that although that agreement was adjusted, the HA for 5298 Alta Lake Road was reconsidered for reasons specific to that project, none of which was to absorb an increase in construction costs since the September 2023 filing date of their housing covenant, which housing covenant included the selling price committed to by that owner in 2020. The reasons for the changes to that HA were:

- Increased development costs to the owner for the added amenity contribution of a public washroom building in the community park;
- Additional construction escalation and carrying costs for the owner caused by delay in application processing due to the statutory requirements applicable to the associated Official Community Plan (OCP) amendment bylaw not being met (RMOW-based delay); and
- CPI increase since September 28, 2023 (as permitted by the housing covenant).

Equitable treatment

The owner explains that other expedited WHA projects have been able to pass increased costs onto purchasers and seeks similar consideration given their project's delays and cost escalations. However, the Landing was considered under the PSEHI, and cost escalations, delays and precedent are addressed herein under the report subheadings Substantial Cost Increase, Extended Approval Process and Precedent.

Staff note that EH developments delivered by the WHA and Whistler 2020 Development Corp (WDC) are not considered under the PSEHI as WHA and WDC are subsidiaries of the RMOW, and as such, are unable to take on the same level of risk.

Community Benefit

The owner explains that they have undertaken the initiative and risk of building these much-needed EHUs at no cost to the municipality which is true. The community benefit to of the upzoning from a detached dwelling to a 20-unit for-purchase residential townhouse development is the 14 units allocated to EH. The process and risk were articulated, and the owner entered into a binding HA.

Urgency

The owner aims to have residents in their new homes by Christmas, which requires resolution by Council on CM00188.

CM000188 was submitted on October 21, 2024, after staff had advised the owner verbally and in writing that staff were not supportive of recommending an increase to the initial maximum sale price of the 14 EDUs.

WHA staff have collaborated closely with the development team of The Landing to create a communication plan and timeline for pre-sales. In February 2024 a new Employee Homeownership opportunity was announced to the entire WHA Ownership Waitlist. To be eligible to select The Landing, applicants were required to have a minimum mortgage pre-approval of \$800,000. 154 waitlist applicants are currently on the waitlist for The Landing with mortgage pre-approvals of at least the minimum threshold of \$800,000.

On May 15, 2024, an overview of the pre-sales schedule was shared with the WHA Ownership Waitlist outlining the steps for interested buyers. Waitlist applicants were invited to submit a Notice of Intent to Purchase by June 21, 2024, after which the WHA conducted eligibility reviews.

The developer provided two Open Houses to interested buyers, although it's not a requirement that an in-person Open House is available to buyers. The first Open House for the top interested buyers took place on September 21, 2024. A second Open House was held on October 26, 2024.

On November 12, 2024, WHA staff were notified by the owner representative that delays in releasing pricing would affect the contract signing date, and further details would be provided when available.

Interested buyers have taken the necessary steps to purchase these housing units and are facing delays that will challenge their expected occupancy. Staff have received three letters from employees eligible to purchase an employee townhouse unit at The Landing stating that the proposed timeline for contract signing and deposit payment was scheduled for the week of November 21, 2024; however, on November 13, 2024, they were advised that the timeline for finalizing the pricing would be delayed until further notice. In each instance, the employees had recently sold their existing homes to sign the "no subjects" contract and face housing insecurity if possession is delayed or purchase price increases. The letter writers request:

- Provide information as to what changes are being requested by the developer;
- Consider the impact (financial loss, housing insecurity, stress) that this review is having on buyers that have committed to purchasing a unit; and
- Deny any changes to the HA that would delay the timeline for possession, and/or increase the purchase price of the units.

A change to the maximum initial sales price must be approved through a new HA bylaw adopted by Council to replace the Existing HA registered on the property title. Any new HA bylaw would not be adopted until January 23, 2025, at best, causing further delay to employee purchase and occupation of the 14 EDUs.

POLICY CONSIDERATIONS

Relevant Council Authority/Previous Decisions

The application is presented for Council consideration relative to applicable municipal policies. Further, 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 development at The Landing are listed below:

[April 26, 2022: Administrative Report No. 22-058](#) – RZ001144 – “Housing Agreement Bylaw (2077 Garibaldi Way) No. 2327, 2022” Report

[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 HA key terms for Council understanding and discussion in advance of receiving proposed HAs for consideration relative to active private and public affordable EH development proposals.

2023-2026 Strategic Plan

The 2023-2026 Strategic Plan outlines the high-level direction of the RMOW to help shape community progress during this term of Council. The Strategic Plan contains four priority areas with various associated initiatives that support them. This section identifies how this report links to the Strategic Plan.

Strategic Priorities

Housing

Expedite the delivery of and longer-term planning for employee housing

Climate Action

Mobilize municipal resources toward the implementation of the Big Moves Climate Action Plan

Community Engagement

Strive to connect locals to each other and to the RMOW

Smart Tourism

Preserve and protect Whistler’s unique culture, natural assets and infrastructure

Not Applicable

Aligns with core municipal work that falls outside the strategic priorities but improves, maintains, updates and/or protects existing and essential community infrastructure or programs

Community Vision and Official Community Plan

The 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 specifies a target to strive for the addition of 1,000 new employee beds over the next 5 years (2019 – 2023). Further, 5.1.3.1 Policy: calls for the RMOW to “Maintain an inventory of EH in perpetuity, for rental and ownership tenures, to be available for employees.”

The use of HAs is an essential tool in achieving the RMOW’s OCP goals and objectives related to securing and maintaining affordable EH for the Whistler resort community, and the following OCP policies provide guidance for the development and administration of these agreements:

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

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

Whistler’s employee HAs and covenants are drafted to be effective in perpetuity. The owner agreed to a HA and covenant that is binding, and there are no extenuating circumstances at this time that support reconsideration of the Existing HA.

BUDGET CONSIDERATIONS

CM application fees provide for recovery of costs associated with processing this application.

LÍLWAT NATION & SQUAMISH NATION CONSIDERATIONS

The RMOW is committed to working with the Lílwat 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 planning on unceded territories, as currently managed by the provincial government; achieve mutual objectives and enable participation in Whistler’s resort economy.

There are no specific considerations to include in this report.

COMMUNITY ENGAGEMENT

Level of community engagement commitment for this project:

Inform Consult Involve Collaborate Empower

A sign describing CM000188 is posted on the property per application requirements.

Staff have received three letters from employees eligible to purchase an employee townhouse unit at The Landing explaining the impact (financial loss, housing insecurity, stress) of the delays and requesting that the requesting that any changes to the HA that would delay the timeline for possession, and/or increase the purchase price of the units be denied.

REFERENCES

Appendix A – Applicant rationale

SUMMARY

This report presents CM CM000188 for Council’s consideration to replace the Existing HA and covenant registered on the property title of The Landing with a new HA to set a higher initial maximum sale price for the 14 EDUs.

Whistler’s employee HAs and covenants are drafted to be effective in perpetuity, and a change to the maximum initial sales price can only be approved through a new HA bylaw adopted by Council. The process and risk were articulated, the owner agreed to a HA and covenant that is binding and there are no extenuating circumstances at this time that support reconsideration of the Existing HA. Further, interested employees who have taken the necessary steps to purchase these housing units face housing insecurity if possession is delayed or purchase price increases.

This report recommends that Council not authorize staff to prepare a new HA bylaw to increase the initial maximum sale price for the 14 EDUs located at The Landing that would replace the existing HA and covenant registered on the property title.

SIGN-OFFS

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